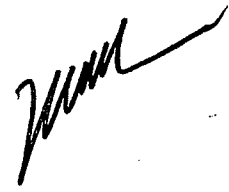




**OFFICE OF THE TOWN ADMINISTRATOR
MEMORANDUM**

TO: Board of Selectmen

FROM: Melvin A. Kleckner, Town Administrator 

SUBJ: Warrant Article 18 of the 2015 Annual Town Meeting: Study of Eminent Domain Taking of "Buffer"-S-7 Land within Hancock Village

DATE: November 6, 2015

As you know, a Resolution under Warrant Article 18 of the 2015 Annual Town Meeting was passed, asking the Board of Selectmen to "study, and consider in good faith the taking under the powers of Eminent Domain the two buffer zones presently zoned S-7 within the Hancock Village property...for a permanently publicly-accessible active recreational space..." In response to that Resolution, the Town Administrator, under the direction of the Board of Selectmen and its designated liaison Selectman Heller, created a staff team consisting of the Planning Director, Director of Parks and Open Space, Building Commissioner, Chief Assessor, Deputy Town Administrator, and Town Counsel. Each staff member was assigned a task within the realm of his or her expertise in order to address the issues raised in the Resolution. We are pleased to submit the attached Report that incorporates this objective study. In addition, Town Counsel engaged the services of Special Counsel with extensive experience in and knowledge of the use of eminent domain in the Commonwealth of Massachusetts to provide the Board of Selectmen with a

legal opinion on issues arising from the study. A confidential legal opinion prepared by Attorney John Leonard is submitted under separate cover.

While not specifically addressed in the Resolution, the Petitioner requested that the Board of Selectmen establish a citizen's committee to conduct this study, based in part on her belief that such committees have historically been established to consider takings by eminent domain, and that a staff committee would contribute to the perception that the proposed taking is being considered in bad faith. However, Town staff has been unable to identify any instance in which a citizens' committee was established as a precursor to an eminent domain taking.¹ Instead, it was determined that a team comprised of staff would be in a position to identify the issues raised by the Resolution Article more readily than a citizens' committee, and that a staff committee would actually be more likely to be perceived as acting in good faith. In addition, the Resolution called for the study to be completed no later than August 16. We considered this deadline to be impractical and instead committed to complete it in advance of the November Town Meeting.

The attached Report is intended to provide the Board of Selectmen with sufficient information to facilitate an informed consideration of whether the Town should contemplate proceeding with the proposed taking. It is not, however, an exhaustive study. Should the Selectmen recommend proceeding with the proposed taking, a more rigorous analysis is warranted, and the following additional information, at a minimum, should be incorporated into an expanded study:

- An independent appraisal to establish just compensation for the landowner, consistent with G.L. Chapter 79;
- a more expansive survey of Precinct 16 residents to help identify the types of recreational uses that are needed and desired;
- refinement of the capital and operating costs of the proposed recreational space;
- exploration of alternative sites within Precinct 16 to address any deficiencies in active and/or passive public open space, noting that the need for public open space as well as the identification of sites that

¹ Many of the properties taken by eminent domain were taken by the Brookline Redevelopment Authority (BRA), which the Petitioner apparently claims sets the precedent for the Town establishing a committee in advance of takings. However, the BRA was not a "committee," but rather a duly organized Authority under G.L. c. 121B with eminent domain powers.

could accommodate that need are expected to be examined further as part of the Strategic Asset Plan (S.A.P.) to be undertaken this fiscal year and the Major Parcel Study (MPS) scheduled in FY17.

I wish to thank the members of the Study Team, the Petitioner and others who we engaged in performing this study. We look forward to reviewing it with you at the Selectmen's meeting on Tuesday evening and to discuss next steps.

cc: Regina Frawley, Petitioner of Article 18
Melissa Goff, Deputy Town Administrator
Joslin Murphy, Town Counsel
Dan Bennett, Building Commissioner
Alison Steinfeld, Planning Director
Erin Gallentine, Director of Parks and Open Space Division
Gary McCabe, Chief Assessor

STUDY OF A PROPOSED EMINENT DOMAIN TAKING OF THE "BUFFER" WITHIN HANCOCK VILLAGE

November 6, 2015

I. SCOPE AND METHODOLOGY

At the 2015 Annual Town Meeting, a Resolution was passed under Warrant Article 18, asking "the Board of Selectmen to study, and consider in good faith the taking under the powers of Eminent Domain the two buffer zones presently zoned S-7 within the Hancock Village property... for a permanently publicly-accessible active recreational space."

In response to the Resolution, the Town Administrator under the direction of the Board of Selectmen established a team consisting of the Planning Director, Director of Parks and Open Space, Building Commissioner, Chief Assessor, Deputy Town Administrator and Town Counsel to conduct an objective analysis of the proposal presented in Warrant Article 18. Town Counsel engaged Special Counsel to provide additional advice to the Board of Selectmen based on his extensive experience and expertise in property acquisition under eminent domain in Massachusetts. Members of the team consulted with the Petitioner, identified and surveyed area residents, conducted extensive research, and reviewed relevant case law to generate this report.

The study is not exhaustive, but instead, is provided with the intent to present relevant and material information for the benefit of decision makers.

II. DESCRIPTION OF THE LAND PROPOSED FOR TAKING

As indicated in **Appendix A: Map of S-7 Area Proposed for Taking**, the land proposed for taking under Article 18 is the area in Hancock Village zoned as S-7, a single-family residential district east and west of Independence Drive. The S-7 area constitutes a portion of the parcels identified as 388A-01-00, 388C-01-00, and 388-01-00 in the Assessor's database, and are part of the 56-acre, 700-unit Hancock Village rental housing complex that straddles Brookline and Boston and is owned by Chestnut Hill Realty. The areas of the complex designated as the S-7 are not discrete parcels with established metes and bounds. Because the boundaries of the area proposed for taking follow

the delineation of the designated S-7 zoning district, this report will refer to the subject property as the "S-7 area" so that the extent of the pertinent area can be easily identified on the Town Assessor's map.

Three roadways intersect the S-7 area: Independence Drive, Thornton Road, and Asheville Road. The total land area within the S-7 zone has been calculated as 6.55 acres. The S-7 area begins west of Independence Drive, bounded by the Baker School parcel on its far left and abutting lots on Beverly Road (about 125,000 square feet). East of Independence Drive, the S-7 area abuts lots on Russett Road and is bounded by the VFW Parkway on its far right. The portion of the S-7 area between Independence Drive and Thornton Road is approximately 48,350 square feet; the portion between Thornton Road and Asheville Road is approximately 138,148 square feet; and the portion between Asheville Road and the VFW Parkway is approximately 66,738 square feet. The western portion is 900 feet long and its depth ranges from 90 to 147 feet. The three eastern portions are 215, 400, and 500 feet long respectively, and range from 70 to 150 feet deep.

Although the grading appears to be flat, contour maps show that the topography undulates gradually. In addition, the majority of the area consists of very shallow ledge. The S-7 area is mostly landscaped with a lawn and about 250 mature trees, located predominantly along the perimeter contiguous to the abutting single-family properties on Beverly and Russett Roads.

The majority of the S-7 area soil is classified as Wet Udorthents, according to U.S. Department of Agriculture's National Conservation Resource Service; however, the Town has confirmed that no wetlands or vernal pools are located within this area. The western portion of the S-7 area is within 350 feet of the D. Blakely Hoar Sanctuary, a 25-acre wooded conservation preserve that hosts various species of birds and other wildlife, wetlands; and a half-mile long walking trail; and the Edith C. Baker School, one of the most populated elementary schools in the town.

III. PLANNING HISTORY AND FUNCTION OF THE S-7 AREA

A timeline of planning, permitting, and conservation actions relative to the S-7 area spanning from the early 1900s to the issuance of the Comprehensive Permit are provided in **Appendix B: Planning History of the S-7 Area.**

Excerpts from official documents relative to the S-7 area are provided in Appendix C: Excerpts from Sources that Describe the Function of the Land Proposed for Taking.

A review of Planning Board records dating back to the 1940's indicates that the Hancock Village housing complex has historically consisted of two basic components in Brookline: an area zoned for multi-family (currently M-.05) and a significantly smaller area zoned for single-family homes (currently S-7). The entire property was initially zoned for single-family residences. Prior to purchasing the property, John Hancock Life Insurance sought approval from the Planning Board and Town Meeting to rezone most of the property to general residence, while leaving the northeasterly strip as single-family. That northeasterly strip is what has been and continues to be referred to as "the buffer" and, for the purposes of this study, "the S-7 or S-7 area."

There are relatively few references to "the buffer" or a "buffer" in official documents, since the S-7 area was not the subject of any rezoning during the 1940's when Hancock Village was constructed. However, the S-7 area was, in fact, intended as a buffer of single family homes. Consequently, the term "buffer" is either used without any qualification, or in the context of single-family homes, i.e. the "buffer of single family homes." The 1946 Agreement does not reference "the buffer"—the agreement is strictly and exclusively an agreement pertaining to the rezoned property, exclusive of "the buffer" or S-7 area.

Additionally, none of the references to the "buffer" in official Town records references "green" or "open space." The only reference in any of the available records was found in the minutes of a discussion of John Hancock's Bureau of Housing, dated May 9, 1946: "A 125-foot park is shown as the buffer zone...the park protects our development from anything that might be built on the other side of it..." However, staff has not been able to locate any written documentation that the developers or owners of Hancock Village or the Planning Board stated this in official Town meetings. Similarly, staff has been unable to locate any official documentation that substantiates a local newspaper account dated August 29, 1946 stating that "Another major change substitutes a natural screen of small trees and other shrubbery for a row of detached single houses which had been planned for the so-called buffer strip along the rear of houses fronting on Beverly and Russett roads."¹

¹ Petitioner's Power point dated April 9, 2015 relative to Warrant Article 18.

As expanded upon in **Appendix B**, Town records indicate that there have been several efforts by the owners of the property to seek Town authorization to create off-street parking within the S-7 area. In rejecting these petitions, Town boards consistently protected the space from encroachment by parking, although not for the express purpose of preserving the S-7 as greenspace. In fact, at its meeting on January 18, 1950, the Planning Board "...decided that....this [would be] a breach of the agreement between the John Hancock Mutual Life Insurance Co. and the Town of Brookline to maintain and use the buffer zone for single houses only..." and voted not to favor the change.²

However, the importance of preserving Hancock Village, in particular the S-7 area, has historically been recognized by the Town of Brookline:

- In 2010, the Brookline Conservation Commission prepared The Open Space and Recreation Plan for the Town of Brookline—2010, identifying "Hancock Village" as one of eleven "Priority Unprotected Open Space Parcels of 5+ Acres." Although "the buffer" is not referenced, Hancock Village was first identified in The 2005 Open Space Plan as one of (then) "thirteen large and significant parcels that should have priority for open space protection, whether through out-right acquisition, conservation restrictions, or agreements for protection by other means."³
- In 2013, Town Meeting established the Hancock Village Neighborhood Conservation District under Section 5.10.3 of the Town of Brookline General By-laws. In approving the establishment of the Conservation district, Town Meeting agreed that "any further development [in the district] shall be compatible with the existing development of the district and its relationship to the adjacent neighborhood....Any proposed Reviewable Project (including demolition, removal, new construction or other alteration)....shall not have a significant negative impact on historic architectural or landscape elements....significant negative impacts shall include, but not be limited to:...loss of the 'greenbelt' now serving as a buffer to the abutting single-family detached homes."⁴

No other municipal efforts to preserve the S-7 district as undeveloped green space could be identified. However, despite the lack of documentation, there

² Final Report and Recommendations to the Town Meeting re: Weld Golf Course (23rd Article)—January 11, 1946

³ Open Space and Recreation Plan for the Town of Brookline—2010. Page 138.

⁴ Town of Brookline General By-Laws, Section 5.10.3, d 1

is little doubt that members of the public, including past and current owners of abutting and nearby properties, believe and/or were under the impression that the buffer area was legally protected as public open space in perpetuity. Further, there is no dispute among those who are familiar with the area that the S-7 area or so-called "buffer" has been used for both passive and active recreational space by tenants of Hancock Village as well as non-tenants, likely since Hancock Village was first developed.

IV. EMINENT DOMAIN

The Power of Eminent Domain

Eminent domain involves the taking of property for a public benefit in exchange for providing the property owner with just compensation for the property that is taken. The Fifth Amendment to the U.S. Constitution provides that "private property shall not be taken for a public use, without just compensation." Thus, the right to the use and enjoy one's property is subject to the State's right of eminent domain. In Massachusetts, this authority comes in part from G.L. c. 79, which provides for a so-called "quick take" process that is outlined below. G.L. c. 79 explicitly provides authority for the Town of Brookline to take private property by eminent domain for a public use.

To exercise the power of eminent domain, the taking authority must meet the following basic conditions: the proposed use for the property must be a legitimate public use, the taking cannot be made in "bad faith", and the property owner must be provided with just compensation.

Procedures and Timeframe

Chapter 79 of the Massachusetts General Law requires that a municipality undertake the following steps in order to take property by eminent domain:

1. The land to be taken must be identified. If necessary, a plan of the land must be obtained from a surveyor for accurate identification;
2. Unless waived by the property owner, an independent appraisal must be obtained before the taking to determine fair market value. This appraisal allows the Town to understand what the property will cost and to budget accordingly. The Town may also need to use engineers and additional experts to determine the fair market value

of the property. The appraisal will be the basis for the "just compensation" offered to the property owner.

3. Town Meeting must vote to both acquire the property and to appropriate sufficient funds to acquire the site (requiring a two-thirds vote). This is the first time that the Town must reveal publicly the site it has chosen to take. The Town is free to provide notice of, discuss and negotiate the acquisition of the property with the property owner at any time.
4. A title examination of the property must be performed to confirm names of owners, mortgagees and other parties with an interest in the subject property.
5. An order of taking, notice, offers, and other associated documents must be drafted. The order must describe the land taken accurately, the property interest taken, and the public purpose for which the property is taken.
6. Relocation obligations under G.L. c. 79A, if any, must be met, which may require that assistance and benefits be provided to displaced residents and businesses as a result of a real estate acquisition by a public or private entity using public funds in a project.⁵
7. The Order of Taking must be executed by the Board of Selectmen.
8. Execution of the Order of Taking must be recorded in the Registry of Deeds within 30 days. Upon recording, title to the property immediately vests in the Town and, generally, all other interests in the subject property are extinguished. The order of taking thus acts like a deed.
9. Notice of the taking and the taking authority's opinion of just compensation (*pro tanto* payment) must be executed and served on every owner, mortgagee or other person with an interest in the property entitled to an award of compensation. Payments must be made within 60 days of the taking or within 15 days of demand for payment by anyone entitled thereto.
10. Displaced residences and businesses must vacate the property within four months of the taking.

This process is designed to occur quickly, so that the public purpose for which the property has been taken may begin without delay. Assuming that all of the necessary steps have been carried out and that the taking has been for a

⁵ Since the S-7 does not include any houses or businesses, relocation would not be an issue.

valid public purpose, the legal challenges that remain include whether the taking was done in good faith, and whether compensation for the property was just.

The property owner may accept the municipality's offer as full compensation or as a "*pro tanto*" payment, thereby allowing the property owner to accept the payment while reserving his or her right to challenge the amount of the payment in court within three years of the date of taking. A judge or jury would decide the outcome of the lawsuit seeking just compensation and/or a determination of "bad faith." Such trials typically are a "battle of the experts." Each side typically presents real estate experts and other experts who can provide opinions of the fair market value and the facts supporting these opinions. Like all litigation, these cases can take years, and final resolution will take longer if appeals are filed.

If the former property owner prevails and is awarded additional compensation, the Town would be required to pay interest on the difference between the *pro tanto* offer and the amount awarded by the court. If the Town prevails and the court awards it damages, the former property owner would be required to pay interest to the Town. Interest is calculated from the date that the order of taking is recorded at the registry of deeds to the date that the Town makes a payment pursuant to a final court judgment. In cases that move slowly through the courts, the interest payment can be significant.

Finally, the Town may not reverse the taking—for any reason. If a final Judgment is more than the Town is willing to pay, the Town remains legally obligated to pay the Judgment, typically with interest.

V. PUBLIC USE: NEEDS ASSESSMENT FOR PRECINCT 16

Warrant Article 18 proposes that the Town take the land zoned as S-7 for use as "publicly accessible active recreational open space." The Parks and Open Space Director conducted a preliminary report assessing the need for active as well as passive recreational space in Precinct 16, a copy of which is included in **Appendix D: Park Needs Assessment for Precinct 16**, dated September 12, 2015. The report provides the Director's initial findings that there is in fact a need for space in Precinct 16 for both active and passive recreational use, and that the S-7 area would be a suitable option to respond to that need.

Needs Assessment Methodology

Two methods are typically used to assess park and open space needs in a community: First, demand-based needs (information derived from public input), and second, standards based on level of service targets set by the National Recreation and Park Association (NRPA). If a need for additional or alternative uses is identified, a subsequent study is usually undertaken to identify and analyze existing and potential resources to respond to the identified need. Typically, a needs assessment is accompanied by an analysis of methods to respond to any identified needs. The scope of the Resolution Article predetermines that decision and focuses exclusively on the S-7 area. This study expressly does not seek to identify alternative resources that could meet the asserted need for public open space.

A. Demand-based Needs Assessment

Under the leadership and direction of Selectwoman Nancy Heller, the Parks and Open Space Division interviewed seventeen individuals, including residents and Town Meeting members from Precinct 16 and members of the Greenspace Alliance and the Park and Recreation Commission. A list of participants is included in **Appendix D**.

Those interviewed shared the general belief that the public open spaces in Precinct 16 (the Baker School Playground, D. Blakely Hoar Sanctuary and Walnut Hills Cemetery) do not satisfy the need for recreational use for Precinct 16 residents. Independence Drive, a busy four-lane street, was viewed as a barrier to access the Baker School playground due to traffic volumes and speeds. In addition, the Baker School playground is perceived as mostly inaccessible when school is in session. Most participants felt that the 25-acre Hoar Sanctuary, although an excellent destination for walking, was too isolated and not suitable as a public space for social gathering. Similarly, the Walnut Hills Cemetery is appropriate for walks but not social gatherings or more active recreation. The Hynes Playground in West Roxbury is a popular destination for families, but requires crossing into West Roxbury via the VFW Parkway, another busy roadway.

Among recreational use possibilities, interviewees sought a combination of the following amenities: accessible walking paths, picnic areas and social gathering spaces, benches, open lawn and trees. The S-7 area was described as an opportunity to provide safe, connected routes in the neighborhood

between places for wildlife (D. Blakely Hoar Sanctuary), recreation, walking and cycling, and a safer route to the Baker School. Several people suggested that a connecting path from D. Blakely Hoar Sanctuary to “the buffer” should be provided to improve accessibility to the conservation area. There were also several individuals who felt that a playground would be an important addition to the neighborhood and that the “buffer” area was particularly well-suited for exercise stations due to its length.

The Needs Assessment report states that “while Warrant Article 18 specifically references ‘active recreation space,’ most interviewees expressed the need for both active and passive recreation space. A passive recreation area is generally a less developed space or environmentally sensitive area that requires minimal enhancement and might include open lawn for picnicking, benches for sitting or reading and paths for walking. Active recreational activities, such as organized sports or playground activities require extensive facilities or development such as: play structures, hard court play areas, athletic fields, and biking facilities.”

The interviewees provided important insight into the perspectives of residents and open space advocates. However, it should be noted that their comments were not limited to “active” open space, as identified in the warrant article. Although the sample for the stakeholder interviews for this study was admittedly small, there are existing plans undertaken by the Town that are based on extensive public participation. These plans confirm an overall need for both active and passive open space throughout the Town. The Town’s Comprehensive Plan—2010-2015, Open Space Plan 2010, and the Park, Recreation and Open Space Master Plan all confirm both the Town’s need for and commitment to creating and preserving open space for both active and passive recreational use.

The Master Plan states:

Brookline needs additional facilities and public spaces for both active and passive uses. The community survey revealed that Brookline residents strongly favor open space acquisition trailways in and between our parks and open spaces, additional athletic fields and the provision of indoor multi-generational community recreation activities...

B. Level of Service Targets

The Brookline Park, Recreation and Open Space Strategic Master Plan relies on the so-called GRASP™ (Geo-referenced Amenities Standards Program) methodology, which is designed to measure and portray the level of service (LOS) provided by parks and recreation systems. Capacity is only part of the LOS equation, which is typically defined in this context as the capacity of the various components and facilities that make up the system to meet the needs of the community. Other factors are brought into consideration, including quality, condition, location, comfort, convenience, and ambience. Parks, recreation facilities, and open space are evaluated as part of an overall infrastructure made up of various components, such as playgrounds, multi-purpose fields, passive use areas, etc. The results are presented in a series of maps and tables that make up the GRASP™ analysis of the study area. Copies of maps relevant to this study are included in **Appendix D**, as is a discussion of the implications of these maps relative to the availability of recreational resources within Precinct 16

The GRASP analysis confirms that Precinct 16 has a deficit of walkable open space. However, when the school grounds, cemeteries and nature sanctuaries are removed from the map, the limited availability of public park resources is compounded significantly.

Overview of Results

Precinct 16 has limited access to walkable public active open space per the Town's Park, Recreation and Open Space Strategic Master Plan and national standards. There was unanimity among the individuals who participated in the interview process that a neighborhood park for active and passive recreation is needed in Precinct 16. There was also a good deal of sentiment about the environmental, aesthetic and historic importance of "the buffer" and many stated their desire to protect and preserve this six-acre green landscape. Development of "the buffer" as a public park for active and passive recreation would provide a neighborhood destination for passive and active recreation that would meet that need.

While this preliminary study attests to a legitimate public need for recreational areas within Precinct 16, it expressly does not address whether or not the S-7 area is the most appropriate site to meet that demand.

Additional Considerations

If a more comprehensive analysis were deemed necessary, there are additional considerations to be addressed relative to establishing, evaluating and responding to the need for recreational space, most notably, but not exclusively:

- A more rigorous survey including but not necessarily limited to all households within a ½ mile radius;
- Availability of parking for recreational uses at the S-7 site;
- Distinguishing between demand for active and passive open space as well as the availability of each;
- Addressing the fact that Independence Drive essentially bisects the two components of the S-7 area, separating the S-7 into two distinct areas.

VI. MARKET VALUE

To establish an opinion of just compensation, the Town would need to engage an outside appraiser to conduct an independent appraisal, the cost of which is significant and beyond the scope of this study. Nonetheless, in order to provide the Board of Selectman with a working estimate for valuation, the Chief Assessor has generated an estimated market value for the land if it were for sale on July 1, 2015. The market value estimate does not take the place of the required independent appraisal, and therefore is not offered as the Town's opinion of just compensation. The Chief Assessor's objective was limited to providing a market value estimate of residential land in Brookline if it were available for sale for single family housing as of a set date. The Chief Assessor's market value report is attached as **Appendix E**.

Market Value Methodology

The valuation analysis that is provided estimates the market value of the subject land as if it were vacant and available for development. Because the subject land is not currently available to the open market and the property owner seeks to develop the land under a Chapter 40B comprehensive permit that has been issued by the Zoning Board of Appeals, the analysis is based solely on a hypothetical condition. Again, this is only a working estimate for valuation, and should the Town elect to proceed with a taking of the S-7 area under the power of eminent domain, the valuation process would be substantially different.

The hypothetical market value estimate was made based on an analysis of 25 residential land sales in Brookline over a period of 52 months, from March 2011 through July 2015. The residential property sales ranged in land area from 6,136 square feet to 228,168 square feet, and in price from \$390,000 to \$7,525,000. Sale prices were adjusted for changes in market conditions between the sale date and the valuation date using the Standard & Poor's Case-Shiller Home Price Index for the Boston Metropolitan Study Area. An explanation of the S&P-CS-Index from the July 2015 composite report is included in **Appendix E: Land Value Estimate of Certain Land in South Brookline.**

Overview of Results

An analysis of residential land sales was used to estimate the subject land value as of July 1, 2015, using a mass-appraisal approach. In total, the 25 sales included 978,008 square-feet of land, representing almost 22.5 acres. The total time adjusted sales price was \$49,773,140, or in aggregate, \$50.89 per square foot of land, on average.

If the average sale price of available residential land in Brookline was \$50.89 per square-foot as of July 1, 2015, under the same or similar conditions, the subject land area of 285,318 square feet would have an estimated market value of \$14,520,500 ($\$50.89 \times 285,318 \text{ sf.}$), under the implied right to develop, general assumptions, and without any specific cost of development considerations or consideration of any known or unknown conditions limiting development, now or in the future.

The fact that a Comprehensive Permit has been issued to the property owner was also not incorporated into the analysis.

Just Compensation

The market value estimated by the Chief Assessor should serve only as a current working estimate. The price of actual just compensation could vary substantially. This is complicated by the fact that the property owner has been issued a Comprehensive Permit to construct 161 units on the Hancock Village property.. According to the plan that was approved by the Zoning Board of Appeals, the S-7 district includes 52 units and 193 surface parking spaces, some of which the developer has consistently maintained would support the apartment building in the M-.05 zoning district.

VII. COSTS and FUNDING

Capital Costs Estimate

The Parks and Open Space Division generated an estimated cost to improve the S-7 area to Town standards as both active and passive recreational space based on the recommendations of the seventeen interviewees. The cost estimate is conceptual, using a base plan and a variety of assumptions relative to conditions. The estimated cost includes installation of handicapped accessible entrances at all of the crossings, a six-foot wide walking/jogging path along the extent of the park, picnic areas, exercise stations, play areas, and pedestrian-scale safety lighting at the crossings. The total cost including construction, contingency and design is estimated at \$1,565,000, the details of which are set forth in **Appendix D**.

Operating and Maintenance Cost Estimate

Annual maintenance costs for the Town are estimated to be approximately \$14,000 for forestry services to include corrective, health and safety pruning and removals as necessary, and \$33,000 for annual landscape maintenance activities from March to December. Costs of snow removal, if necessary, should be incorporated into the cost estimate.

VIII. FUNDING SOURCES AND FINANCIAL IMPACT

There are two State funding grant programs that are designed to reimburse communities for costs associated with acquisition of open space: The Land and Water Conservation Fund (LWCF) Grant Program and the Massachusetts Parkland Acquisitions and Renovations for Communities (PARC)⁶ Program, both administered by the Executive Office of Energy and Environmental Affairs (EOEEA). While the state has not had a grant round for the former

⁶ The PARC grant has a companion grant known as the "Massachusetts Local Acquisitions for Natural Diversity Program, aka LAND grant. The LAND grant provides funding to Conservation Commissions to help acquire land for natural resource protection and passive outdoor recreation purposes. The Town would not pursue a LAND grant for reimbursement to acquire the S-7 area given the intent of Warrant Article 18 is to study the acquisition of the property for active open space.

since FY13, EOEEA advises that it hopes to have a grant round in Fiscal Year 2016. While the maximum LWCF Grant has traditionally been set at \$250,000, a maximum award has not yet been established for FY16. The PARC grant, which is active, sets a maximum reimbursement to municipalities of \$400,000.

EOEEA has advised that there are currently no federal grants available for the purpose of acquiring land recreational uses.

If the Town proceeds to take the S-7 area by eminent domain, the Town would prepare application(s) for both the LWCF and PARC grants (assuming that they are active) and also avail itself of State Representative Edward F. Coppinger's offer to the Town dated March 24, 2015 to "zealously advocate for state funding or any other government agency, on behalf of said Eminent Domain taking." State Representative Edward F. Coppinger's letter to Town of Brookline Officials dated March 24, 2015 is included as **Appendix F: Letter from Rep. Edward F. Coppinger.**

Evaluation of Financial Impact

The Deputy Town Administrator evaluated the potential impact of a capital expenditure of \$14,520,500, based on the Chief Assessor's estimate of value. Her full report is attached herewith as **Appendix G: Capacity in the CIP for Certain Land in South Brookline.**

Because the FY2017-FY2022 Capital Improvement Program (CIP) is still in development, the Deputy Town Administrator based her evaluation on the assumptions used in the FY2016-2021 CIP, with funds borrowed during FY 2017 and debt service commencing in FY 2018. A \$14,520,500 million bond to fund the purchase of the S-7 area would cost the Town roughly \$1.6 million for the first year of debt service.

The Town's CIP policies call for 6% of the prior year's net revenue to be dedicated to the CIP. The goal is to have the 6% consist of both a debt-financed component and a revenue (or "pay-as-you-go") component, with 4.5% for debt-financed CIP and 1.5% for pay-as-you-go CIP. Adding the cost of a bond used to purchase this land to the debt service schedule would effectively eliminate the availability of tax-financed monies from that 6% financing. This would leave just Free Cash as the funding source for all pay-as-you-go projects, thereby generating a high level of uncertainty to the CIP. The

amount of free cash available for the CIP can fluctuate dramatically from year-to-year.

At a minimum, \$1.6M of pay-as-you-go projects would need to be cut from the CIP in FY2018, and in future years there would be less capacity for projects currently contemplated in the debt management plan (such as added capacity to the High School). Borrowing plans for future projects would likely need to be reconsidered or delayed in addition to the reductions in pay-as-you-go projects scheduled in the out-years of the CIP. Given the level of pressure this project would exert on the CIP, it could be more realistic to pursue debt exclusion for funding.

IX. LEGAL ISSUES

Should the Town elect to take the so-called S-7 area under the power of eminent domain, a legal challenge to the validity of the taking can and should be expected. Special Counsel with extensive experience in eminent domain takings was engaged by Town Counsel and requested to prepare an opinion on the legal issues that arise from eminent domain takings.

Special Counsel's opinion is not included with this report because it is confidential and protected from disclosure under the attorney-client privilege. Although the Board of Selectmen could choose to waive this privilege, it is not recommended that they do so, because disclosure of the opinion would be highly likely to compromise the Town's position regarding a potential taking. However, the legal questions analyzed by Special Counsel are discussed briefly below, to provide an understanding of what a legal challenge to the taking would likely involve. These issues include the following: First, whether the taking was for a valid "municipal purpose"; second, whether the taking was made in good faith; and third, what compensation the property owner is entitled to for the taking.

Municipal Purpose

Pursuant to *M.G.L. c. 40, §14*, a Town may take land by eminent domain for "any municipal purpose." Resolution Article 18 proposes taking the so-called S-7 area at Hancock Village for "permanently publicly accessible active recreation space." Because Massachusetts Courts have consistently held that recreational use is a legitimate municipal purpose, it is unlikely that a

challenge on this basis alone would be successful. Nonetheless, whether the Town's taking met the requirement is a judicial question; any declaration of purpose in the Town Meeting vote or vote by the Board of Selectmen would not, standing alone, be conclusive. See, *City of Boston v. Talbot*, 206 Mass. 82 (1910).

Good Faith

A taking by eminent domain, even if proper on its face, can be invalidated if a court finds that the taking was made in bad faith. *Pheasant Ridge Assoc. L.P. v. Town of Burlington*, 399 Mass. 771, 775 (1987). With respect to the eminent domain taking that is contemplated by Article 18, the likely legal question would be whether the taking was made in good faith, or whether the stated public purpose was merely a pretext because the actual purpose of the taking was to thwart the construction of affordable housing. Should a court find that the Town had made the taking in bad faith, the Town would be potentially liable for the challenging party's attorney's fees, costs and expenses, as well as reimbursement for any damages suffered due to the delay necessitated by the Town's taking.

Special Counsel's legal opinion includes his analysis of the likelihood of success, or failure, of a potential bad faith claim based on the material that is provided in this report.

Just Compensation

Any taking by eminent domain must also be accompanied by a payment of just compensation to the property owner in exchange for the taking. This amount would be equal to the property's "fair market value," defined as "the highest price which a hypothetical willing buyer would pay to a hypothetical willing seller in an assumed free and open market," with the hypothetical sale occurring on the date the eminent domain taking is recorded at the Registry of Deeds. In addition, this taking would represent a taking of only a portion of a much larger piece of property, and just compensation for the taking would also need to include the diminution of value of the remaining land, if any. *Kane v. Town of Hudson*, 7 Mass.App.Ct. 556 (1979).

While the Town would customarily extend an offer of payment alongside any eminent domain taking, the offered amount would almost certainly be challenged in court as inadequate. If this occurred, it would necessitate an

additional trial, likely before a jury, where both sides would employ expert witnesses in real estate valuation to argue that their proposed figure more accurately reflects the property's fair market value.

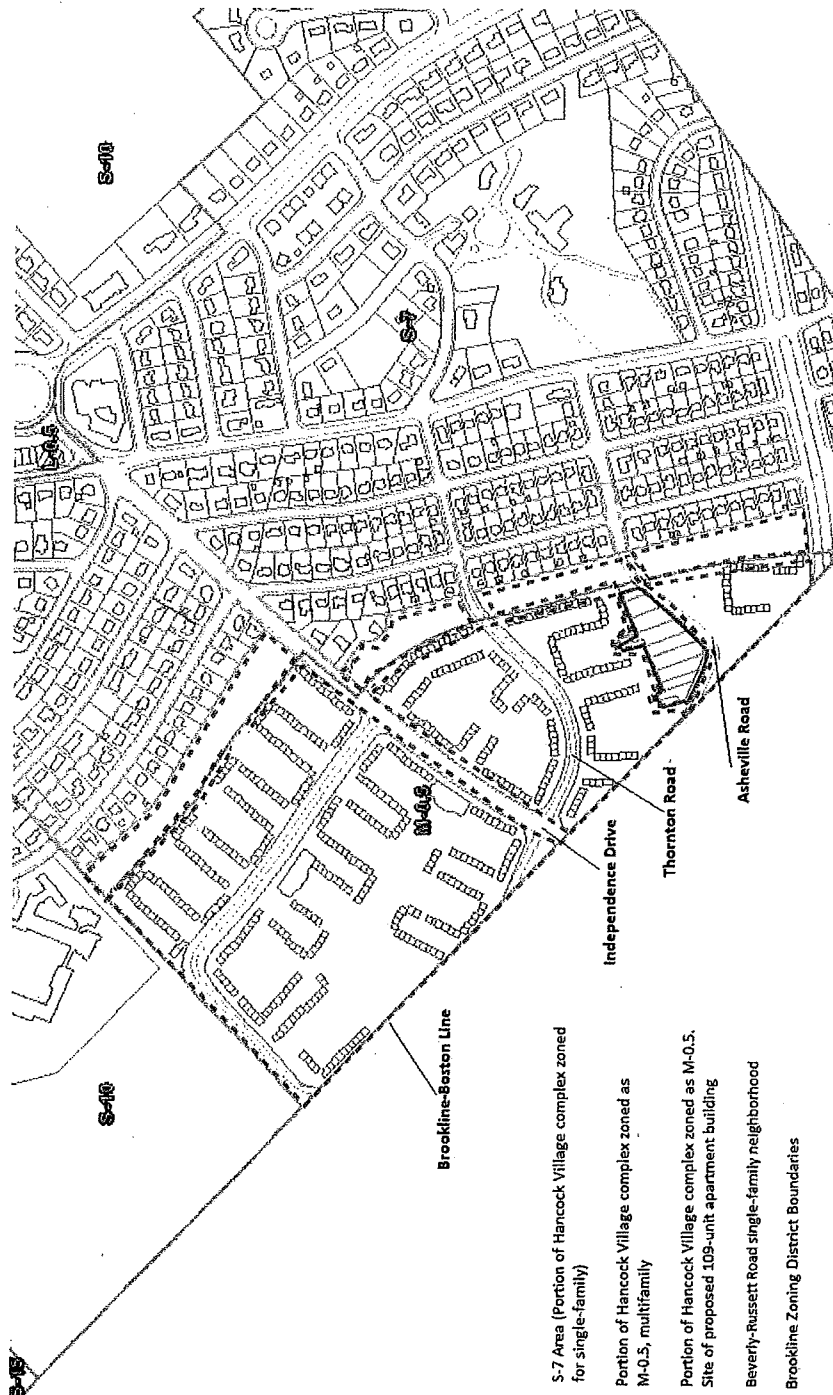
Special Counsel's legal opinion includes his analysis of the issues related to the payment of just compensation for the proposed eminent domain taking, based on the material that is provided in this report.

Conclusion

In concluding, Special Counsel advises us that "the probability of success in eminent domain cases is directly related to the experience of the trial judge; the quality of the attorneys and expert witnesses and the degree of sophistication of the jury in real estate valuation matters . . . the alleged bad faith taking case and the eminent domain damage case represent high stakes [and] costly and publicly acrimonious litigation for the Town, all of which considerations must be seriously weighed by the Board before electing the volatile and unpredictable eminent domain option in these circumstances."

APPENDIX A

Map of S-7 Area Proposed for Taking



Green dashed line delineates
S-7 Area proposed for
taking.

Map source: Brookline Tax
Atlas

APPENDIX B

Planning History of the S-7 Area

Early 1900s	In the early 1900's, the property was owned by Francis C. Welch et al Trs. and Weld Real Estate Trust. An undated map indicates that the property was undeveloped.
1920s	The Weld Golf Club, owned by Weld Golf Course Trust Inc., was created. It was a private golf course, although records from 1927 indicate that Harvard students and faculty were allowed to buy a maximum of 100 tickets per day for a three-week period at \$1.50 per ticket.
Between 1927 and 1946 (precise date unknown)	"The area which is proposed to be rezoned from the 4D, single-family residence district, to the 3C, general residence district [and which] was formerly a part of the Weld Golf Course" ceased being "used for any purpose for several years." Presumably this statement applies to what is now the S-7 area as well.
January 11, 1946	The John Hancock Insurance Company entered into an option to purchase the entire property from a Mr. Engstrom subject to the Town supporting a zone change of "substantially the whole of the proposed site of Hancock Village" from a single family zone to a general residential zone. Specifically, according to the Planning Board's Final Report and Recommendations to Town Meeting dated January 11, 1946, approximately 43.13 acres were to be rezoned from 4D to a new 3C zone, with "the strip of land (containing about 8.25 acres) not to be rezoned, situated northeasterly of the area described in this article [which] will be developed for detached single-family residences and will form a buffer strip or area between the present single-family residences on Beverly and Russett Roads and the proposed new 3C district."
March 1946	John Hancock Insurance executed an Agreement relative to the property to be rezoned (i.e. not including the land currently zoned S-7.) The Agreement does not reference the so-called "buffer," which retained its single-family zoning designation. By its express terms, the Agreement addresses only the land that was rezoned from single to multi-family. "The town, at its annual meeting in 1946, voted to amend the by-law by rezoning substantially the whole of the proposed site of Hancock Village so that it became a 3C District, in which attached multiple family dwellings were permitted. A strip on the northerly and easterly boundaries of the site, of uneven width averaging a little over 100 feet wide, was allowed to remain in the 4D District to form a buffer between the detached single residence neighborhood lying to the north and east of the village the more closely built up village."
May 9, 1946	None of the official records identified by the Planning Department references "buffer," "green space," "natural screen," or "open" space." The only reference in any of the examined official documents to something other than a buffer for single family homes or "buffer" without any qualification was found in minutes dated May 9, 1946 from John Hancock's Bureau of Housing: "A 125-foot park is shown as the buffer zone...the park protects our development from anything that might be built on the other side of it..."
January 18, 1950	The Planning Board considered a request by John Hancock Insurance to establish an off-street parking area in a single family district "otherwise referred to as a 'buffer zone.'" "Appearing in opposition....were: Eli H. Clazett, who stated that he represented the Putterham Association and the South Brookline Center.... [and] that this request for change of zone was a breach of the agreement between the Town of Brookline and the John Hancock Mutual Life Insurance Co., as President Clark [of John Hancock Insurance] had stated on many occasions that this buffer zone was to be used solely for single houses." In Executive Session on the same date, the Planning Board "...decided that....this was a breach of the agreement between the John Hancock Mutual Life Insurance Co. and the Town of Brookline to maintain and use the buffer zone for single houses only..." and voted not to favor the change.
January 8, 1958	The Board of Appeals denied a variance for parking at the corner of Independence

	Drive and Russett, finding "that while the proposed variance would be of some help, it would not entirely eliminate the problem, and there is other parking space provided by the Hancock Village within reasonable walking distance which is now being enlarged."
December 28, 1967	The Board of Appeals denied a petition for a variance to create a new accessory parking areas adjacent to 471-523 VFW, "said premises being located in a S-7 (Single Family) District, stating "[t]he burden is on the appellant, we think, to prove that no other solution is possible. This was not done, and the appellant's hardship not proved."
1980s	The single family 4D district was eventually rezoned to the existing S-7 (single family) district, presumably during town-wide rezoning process. In 1985, three parcels were "carved out" of the S-7 zone and three single-family houses were constructed (according to Assessors records): 14, 18 and 22 Independence Drive. These three houses were built as-of-right.
2005	Brookline Comprehensive Plan (2005 – 2010) includes one reference to Hancock Village asserting that the residential complex should be considered as an appropriate location for affordable housing.
2011	The Open Space and Recreation Plan for the Town of Brookline (2010), prepared by the Brookline Conservation Commission, identifies "Hancock Village" as one of eleven "Priority Unprotected Open Space Parcels of 5+ Acres." Although "the buffer" is not referenced, Hancock Village was first identified in the 2005 Open Space Plan as one of (then) "thirteen large and significant parcels that should have priority for open space protection, whether through out-right acquisition, conservation restrictions, or agreements for protection by other means."
Ongoing	Brookline residents have claimed that assurances were made by owners of Hancock Village and others that the buffer would remain as green space or as publicly-accessible open space in perpetuity.
2011-2013	A Neighborhood Conservation District Town Bylaw was established over the parcels that make up the Brookline portion of the Hancock Village complex to conserve an application of the Garden City planning theory espoused by English planner Ebenezer Howard. "Any further development shall be compatible with the existing development of the district and its relationship to the adjacent neighborhood....Any proposed Reviewable Project (including demolition, removal, new construction or other alteration)....shall not have a significant negative impact on historic architectural or landscape elements....Significant negative impacts shall include, but not be limited to:...loss of the 'greenbelt' now serving as a buffer to the abutting single-family detached homes." Town Bylaw, Sec. 5.10.3
June 22, 2012	State determines that Hancock Village is eligible for listing in National Register of Historic Places.
August 2012-February 20, 2015	Zoning Board of Appeals files decision with 70 conditions with Town Clerk granting a Comprehensive Permit to construct 161 rental residential units (20% affordable housing) in 12 buildings and 293 parking spaces. Forty-eight (48) units in eleven (11) buildings and 194 surface parking spaces would be located in the S-7 area.
2014	Hancock Village was identified by Preservation Massachusetts as one of the Commonwealth's ten "most endangered" historic resources.

Sources include:

- Planning Board records from 1940 to 1958. (Note: the Planning Board as opposed to the Board of Appeals was charged with the responsibility for land use decisions during this time frame.)
- Minutes of Meetings of Brookline Long Range Planning Committee 1943-1945
- Planning Board Reports binder from 1945 to 1947

- Agreement by John Hancock Life Insurance Company executed March 11, 1946 relative to the rezoned property
- Town responses to Chestnut Hill Realty's applications to MassDevelopment for a Project Eligibility letter in 2012 and 2013
- Hancock Village Olmsted Correspondence Files (1941-1948) re: John Hancock Housing Job No. 9703
- Owners' petitions to build parking within the buffer (1950, 1958 and 1967)
- Hancock Village Planning Committee binder
- Planning Department files on the Hancock Village property
- Open Space and Recreation Plan for the Town of Brookline 2010
- The Comprehensive Plan 2005-2015
- The Open Space and Recreation Plan for the Town of Brookline (2010
- Neighborhood Conservation Districts, Article 5.10 of the General By-laws
- Petitioner's power point presentation dated April 29, 2015 relative to Warrant Article 18 from 2015 Annual Town Meeting

APPENDIX C

Excerpts from Sources That Describe the Function of the Land Proposed for Taking

EXCERPTS from Planning Board Records (leather binder #2—March 1940 to...)

"Final Report and Recommendations to the Town Meeting RE: Weld Golf Course Development (23rd Article)—January 11, 1946:

'...The John Hancock Mutual Life Insurance Company holds an option to purchase the property described in the above article and an additional strip on the northeasterly side thereof, said areas together forming a single tract of about 51.38 acres in Brookline. This Company intends to purchase said tract, if the aforesaid article is favorably act upon, and plans to build on the rezoned portion thereof connected single and two-family dwellings. The strip of land (containing about 8.25 acres) not to be rezoned, situated northeasterly of the area described in this article will be developed for detached single-family residences and will form a buffer strip or area between the present single-family residences on Beverly and Russett Roads and the proposed new 3C district.'"

John Hancock Development—May 29, 1946

"The Chairman first took up the matter of new plans for the Garden Village development of the John Hancock Mutual Life Insurance Co., presented by the Ring Engineering Co., Inc., and called attention to the fact that these differed materially from the previous plans, and contained several undesirable features, namely: some buildings were shown as overlapping the buffer zone....After a thorough discussion, it was decided that the plan was not satisfactory to the Board."

January 18, 1950

"The [Planning] Board then considered amendments (d) and (e) as proposed. The Chairman explained that these were requested by the John Hancock Mutual Life Insurance Co. so that it would be possible, if adopted, to establish an Off-Street Parking Area in a Single Family District; otherwise referred to as a 'buffer zone.'

"Appearing in opposition to these proposed amendments were: Eli H. Clazett, who stated that he represented the Putterham Association and the South Brookline Center. He stated that this request for change of zone was a breach of the agreement between the Town of Brookline and the John Hancock Mutual Life Insurance co., as President Clark had stated on many occasions that this buffer zone was to be used solely for single houses."

"Dan Daley also spoke in opposition, expressing the same reasons as Mr. Clazett."

"Many letters were received by the Board in opposition to the change. A show of hands showed thirteen opposing amendments (d) and (e)."

"No one appeared in favor."

January 18, 1950

"In EXECUTIVE SESSION, the Planning Board took up each proposed amendment as follows:
HANCOCK VILLAGE. Proposed amendments (a), (b) and (c).

"The Board decided to take no action until Mr. Philip Nichols appeared at a later meeting and clarified the meaning as expressed in the amendment for 'Accessory Uses.'

"Referring to amendments (d) and (e), it was decided that as the opposition was unanimous, that this was a breach of the agreement between the John Hancock Mutual Life Insurance Co. and the Town of Brookline to maintain and use the buffer zone for single houses only, it was unanimously

VOTED: Not to favor the change."

January 25, 1950—FINAL REPORT ON AMENDMENT TO THE ZONING BY-LAW

"The town, at its annual meeting in 1946, voted to amend the by-law by rezoning substantially the whole of the proposed site of Hancock Village so that it became a 3C District, in which attached multiple family dwellings were permitted. A strip on the northerly and easterly boundaries of the site, of uneven width by averaging a little over 100 feet wide, was allowed to remain in the 4D District to form a buffer between the detached single residence neighborhood lying to the north and east of the village the more closely built up village.

**NOTES FROM OTHER CORRESPONDENCE--PLANNING DEPARTMENT'S FILES
(ALL RELATE TO EFFORTS BY OWNERS TO CONSTRUCT PARKING IN THE BUFFER)**

Board of Appeals—Case No. 583—January 8, 1958 (variance for parking denied)

"John Hancock Mutual Life Insurance Company applied to the Building Commissioner for permission to construct an open-air accessory parking lot on the Hancock Village property at the corner of Independence Drive and Russett Road, Brookline. The permission was denied and an appeal was seasonably taken from the decision of the Building Commissioner."

"Upon the foregoing evidence we find that whatever existing hardship there may be in the enforcement of the Zoning By-Law is not a hardship to the appellant but rather to the tenants of its buildings and to the Fire and Police Departments of the town. The Board finds that while the proposed variance would be of some help, it would not entirely eliminate the problem, and there is other parking space provided by the Hancock Village within reasonable walking distance which is now being enlarged."

Board of Appeals—Case No. 1465—December 28, 1967 (variance for parking denied)

"Westbrook Village Trust applied for a variance from Section 4.30 of Zoning By-Law to allow a new accessory parking area for 93 cars adjacent to 471-523 Veterans of Foreign Wars Parkway, said premises being located in a [sic] S-7 (Single Family) District."

Claim of appellant: "The appellant would be within its rights to build one-family houses on the proposed parking site, but a new road would have to be laid out to give access, and so this is not practical."

"Six persons spoke in opposition, including Representatives Backman and Dukakis, and the President of the Putterham Circle Association. They contended that when the John Hancock Petition to rezone certain land was voted for by the Town, it was represented that a buffer zone of S-7 restriction would be maintained between the development and other land, and that to vary those restrictions so as to allow parking would violate the spirit of the agreement then entered into."

Decision: "The burden is on the appellant, we think, to prove that no other solution is possible. This was not done, and the appellant's hardship not proved. Variance denied."



TOWN OF BROOKLINE
Massachusetts
DEPARTMENT OF PUBLIC WORKS
PARKS AND OPEN SPACE DIVISION

Andrew M. Pappastergion
Commissioner

Erin Chute Gallentine
Director

Memorandum

To: Mel Kleckner, Alison Steinfeld
From: Erin Gallentine
Date: September 12, 2015
Re: Warrant Article 18: Analysis of Need for Open Space in Precinct 16

Below please find a report of the Parks and Open Space Division pertaining to the Park and Open Space needs of Precinct 16 and whether or not the area zoned as S-7 within Hancock Village and commonly referred to as "the buffer, which is owned privately, could help meet that need if converted to public use. The report is created in response to Resolution Warrant Article 18 of the 2015 Annual Town Meeting, asking the "Board of Selectmen to study and consider use of Eminent Domain for two green space buffer zones along Russett and Beverly Roads...for a permanent publicly-accessible active recreation space." The Division was tasked with the following:

- a. Evaluate the need for active public recreational space in Precinct 16
- b. Analyze the suitability of referenced buffer zone parcel(s) for active public recreational use
- c. Provide a range of costs to convert the referenced buffer zone parcels to active recreational space consistent with Town standards
- d. Provide operating and maintenance cost estimates

Methodology

The Division, under the leadership and direction of Selectwoman Nancy Heller, interviewed residents and Town Meeting Members from Precinct 16, members of the Greenspace Alliance, and Park and Recreation Commission members. In addition, the Division references past work and analysis that expresses the Town's open space values and preferences through three planning processes: The Parks, Open Space and Recreation Strategic Master Plan 2006 led by the Park and Recreation Commission and staff, The Open Space Plan 2010, a planning process led by the Conservation Commission, and the Brookline Comprehensive Plan 2005-2015, led by the Town's Department of Planning and Community Development.

Despite its urban character and proximity to Boston, Brookline has a substantial and diverse park system, ranging from small neighborhood playgrounds and public gathering places in commercial areas to grand historic landscapes and natural areas. Home to a working farm that has been in the same family since the 17th century, elegant estate properties from a bygone age, and two renowned Emerald Necklace Parks designed by Frederick Law Olmsted, Brookline highly prizes the grand, dramatic open spaces and natural areas that are rich in history as well as environmental values. Brookline also values the balance of density and accessible open space, in the form of small parks, pedestrian and bicycle-friendly ways and public gathering spaces that make for a vibrant community life in a more urban setting. The environmental, social and public health benefits that accrue from this collection of open space are considerable and its presence contributes greatly to the aesthetic appeal of the community.

Brookline, with approximately 4,355 acres, is surrounded by the City of Boston on three sides and the City of Newton on the southwest. Approximately 13% of Brookline's land area consists of parks, open space and recreation facilities owned and managed by the Town. The Parks and Open Space inventory in both The Master Plan and The Open Space Plan separate the open space properties into ten categories: community parks (11) including the Putterham golf course, historic parks (5), neighborhood parks (12), passive parks (11), school playgrounds (10), conservation areas (4), and other open space including traffic medians and islands, buffers, reservoirs and water supply lands. This report specifically addresses access to active and passive recreational public open space in Precinct 16. The public open spaces in Precinct 16 include the Baker School Playground, D. Blakely Hoar Sanctuary and Walnut Hills Cemetery.

The Need for Public Recreational Space in Precinct 16

Selectwoman Nancy Heller and Director Erin Gallentine conducted four meetings and several phone interviews with a range of residents including: Precinct 16 Town Meeting members (TMMs) and residents, and South Brookline Neighborhood Association (SBNA) members¹. Participants represented a range of interests, ages, family status and community experiences and were asked the following questions:

1. What are the recreational needs of Precinct 16?
2. What are the public recreational resources that the precinct uses?
3. What are the opportunities or possibilities for public recreational use in Precinct 16 that would be within about a 10-minute walk?
4. How has the area known as "the buffer" been used historically?
5. What would you see as being the best and highest use for the area known as "the buffer" if it were public land?

The results of the interviews revealed that a significant majority of participants shares similar opinions about the recreational needs of Precinct 16 and the opportunities to meet that need. The general consensus from the interviewees was that Precinct 16 needs a safe, walkable, multi-generational, and accessible public park to meet the active and passive recreational needs of the neighborhood. While Warrant Article 18 specifically references "active recreation space;" most interviewees expressed the need for both active and passive recreation space. A passive

¹ Participants included: Joyce Stavits Zac (TMM/SBNA), Scott Gladstone (TMM), Deb Abner, Alisa Jonas (TMM), Irene Scharf (TMM), William Pu (TMM), Robin Koocher, Judith Leichtner (TMM), Robert Cook (Planning Board/Walnut Hills Cemetery Trustee), William Varrell, Deborah Dong, Steven Chiumenti (TMM), Nancy Fulton, Thomas Gallitano (TMM), Hugh Mattison (Tree Planting Committee), Arlene Mattison (Greenspace Alliance)

recreation area is generally a less developed space or environmentally sensitive area that requires minimal enhancement and might include open lawn for picnicking, benches for sitting or reading and paths for walking. Active recreational activities, such as organized sports or playground activities require extensive facilities or development such as: play structures, hard court play areas, athletic fields, and biking facilities.

Those interviewed shared the general belief that the public open spaces in Precinct 16 (the Baker School Playground, D. Blakely Hoar Sanctuary and Walnut Hills Cemetery), pose recreational limitations to the residents. The Walnut Hills Cemetery has a very specific and private function and, while some in the neighborhood find it to be a peaceful place to walk and enjoy the landscape, most individuals said that they would not consider it a recreational destination for themselves or their families. The D. Blakely Hoar Sanctuary is considered an excellent location to take a nature walk, but not a destination for social gathering and recreation. A few individuals added that they were not comfortable going to the sanctuary because it was somewhat isolated. The Baker School grounds are generally designated for school use Monday-Friday from approximately 8:00 am to 5:30 pm and considered inaccessible during those times. In addition, residents on the east side of Independence Drive felt that it was also inaccessible due to the high speed and volume of traffic on Independence Drive, which felt like a barrier. For example, one interviewee noted that traffic is a deterrent when considering walking to Baker School from his house, especially having to cross Independence Drive, which can be dangerous. Another said that not only is the Baker School field heavily programmed with sporting events outside of school hours, it is not close enough for children to safely walk or bike to from the east side of Independence Drive. Another interviewee said that while school is in session, recess begins at 10 am and is closed to the public for the majority of the day. One interviewee said that her family would wait until evenings to go to the Baker School Playground, when it became available to the public. The small garden next to Putterham Library was mentioned by several individuals as a small area that was a nice visual amenity, but too small for any meaningful active recreation.

Several of the participants added that while there were other options, such as the larger community parks (Larz Anderson Park and Skyline Park) within one to two miles of the precinct, they also were not easily accessible and certainly not walkable, not only due to distance, but also due to busy streets with difficult crossings. They added that while these are important community resources due to size, distance and programming, they were not the type of spaces that easily foster the local connections and sense of community provided by neighborhood parks. One individual stated that he did not mind the short drive to various parks and personally preferred the larger tracts of land, but noted that walkability would be especially important to the elderly and parents of young children in the neighborhood. In addition, some residents (in particular those east of Independence Drive) stated that they would walk to Hynes Playground in Boston; while it was a popular park destination, it was difficult to access due to the need to cross VFW Parkway and did not build neighborhood connections and a sense of community due to it being outside of Brookline.

Overall, the participants opined that there was a need for a public park in Precinct 16 for active and passive recreation; a gathering place where neighbors form social ties that produce stronger, safer neighborhoods, have the opportunity to live healthier lifestyles, and build the overall sense of community that makes Brookline special. It was noted by several interviewees that many of the residential properties in the precinct had a very small footprint and were limited as far as any recreational use due to size and topography, such as rocky ledge. Additional comments about the need for a neighborhood park included the importance of the physical character of the neighborhood, providing safe places for children to play, opportunities for individuals to be in nature, physical exercise, environmental benefits, more efficient storm water management,

reduction of air and water pollution, and the opportunity for a safe connected route between the neighborhoods, D. Blakely Hoar Sanctuary and the Baker School. The concern about the changing demographics in Brookline was also raised. An increase in young and school age children has impacted the school population town-wide. The Baker School renovation and expansion only 10 years ago was insufficient to accommodate the number of children in the school and in the summer of 2015 additional classrooms were added. The increase in pre-school and school age children does not only impact the schools, but also the parks and open space. There is an even greater need for a neighborhood park to accommodate the changing community.

The Buffer Zone

The S-7 area, consisting of landscaped open space, serves as a buffer between the Hancock Village buildings and the adjacent detached single-family residential developments off Beverly Road to the north and Russett Road to the east. The residential superblocks of Hancock Village were arranged to preserve much of the natural landscape. The community green space at the highest point within Hancock Village, at the southeast corner between Thornton and Asheville roads, allows residents to take advantage of scenic views. To avoid the visual disruption of large surface parking lots, the designers placed discrete clustered parking areas at street edges and within communal garages. The S-7 area is a significant feature of the landscape on the north and east boundaries of the residential development. It maintains mature trees and features long, meandering paths, many with a sight line up the hill, that act as a park space for Hancock Village residents.

The individuals who participated in the interviews discussed the historical uses of “the buffer”. The activities that they either observed or participated in included: walking, biking, running, cross country skiing, sledding, volleyball, birthday/family parties and neighborhood gatherings, play, outdoor movies, barbeques, volleyball, Frisbee, ball playing, reading, sunbathing, birdwatching, and many other activities. Some of the interviewees felt comfortable to use the area as though it were public open space or an extension of their back yards. Other interviewees felt that the area was clearly private and while they observed these activities they were not sure if the individuals using the space were Hancock Village residents, guests of the residents or people from the neighborhood. The opinion as to whether the land was available for public use ranged widely; generally, individuals who were direct abutters viewed the land as open and welcoming and others who lived farther away had the perception that the land was private and intended for private use only.

The interviewees were asked for suggestions to meet the described recreational open space need within the precinct, but largely only had one recommendation, “the buffer”. It was generally described as the best option for public open space that would meet the recreational need of the neighborhood. The individuals interviewed described the primary need and best and highest use of the S-7 area to be a public neighborhood park that would have any combination of the following: accessible walking paths, picnic areas and social gathering spaces, benches, open lawn and trees. The area was described as an opportunity to provide: safe connected routes in the neighborhood to the D. Blakely Hoar Sanctuary); areas for recreation, walking and cycling; and a safer route to the Baker School. Several people suggested adding a connecting path from D. Blakely Hoar Sanctuary to “the buffer” for access and to encourage potential use. There were also several individuals that felt that a playground would be an important addition to the neighborhood and that the area, due to its length, was particularly well suited for exercise stations. One person advocated for a hard court area for basketball or street hockey.

Park and Recreation Needs Assessment of Precinct 16

Analysis of the existing parks, open space, trails and recreation systems helps to determine how they serve the public. The Brookline Park, Recreation and Open Space Strategic Master Plan uses a methodology called **GRASP™** (Geo-referenced Amenities Standards Program). This methodology has been applied in communities across the nation as a way of measuring and portraying the service provided by parks and recreation systems. In this methodology, capacity is only part of the Level of Service (LOS) equation. LOS is typically defined in this context as the capacity of the various components and facilities that make up the system to meet the needs of the community. Other factors are brought into consideration, including *quality, condition, location, comfort, convenience, and ambience*. Parks, recreation facilities, and open space are evaluated as part of an overall infrastructure made up of various components, such as playgrounds, multi-purpose fields, passive use areas, etc. The results are presented in a series of maps that make up the **GRASP™** analysis of the study area, copies of which are attached herewith.

For Brookline's LOS analysis, a service radius of 1/3 mile has been used, on the assumption that this radius encompasses an area from which the park or playground can normally be reached within an indirect route of approximately ½ mile or a walking time of 10 minutes. While an individual's willingness to walk varies greatly depending on age, health, time availability, quality of surroundings, safety, climate, and many other factors the Town's LOS standard is similar to the access analysis published by the Trust for Public Land that identified a half-mile, or 10-minute, walk to a park as a common national standard.

The *GRASP ANALYSIS WALKABILITY MAP* provides a composite picture of how the park system infrastructure, taken as a whole, offers residents access to recreation opportunities within an easy walk of home. On this map, darker shades represent places where there is greater availability of options, in terms of quantity and quality, for people to get out of their house and walk to. The map shows that over 90% of the town area has some walkable park, open space or recreation facility. This map is relevant because it demonstrates that Precinct 16 has a deficit of walkable open space. However, when the School Grounds, Cemeteries and Nature Sanctuaries are removed from the map, as shown in the *RECREATIONAL OPEN SPACE ACCESS BY PRECINCT MAP*, it further demonstrates the limited availability of public park resources to the neighborhood.

POPULATION ANALYSIS DENSITY PER SQUARE MILE MAP shows the population density in terms of number of persons per square mile for each census tract in Brookline. As the map indicates, densities are much higher in the northern parts of Brookline, ranging to more than 28,000 per square mile in some neighborhoods, and averaging at least 7,500 per square mile throughout the northern area. In the south, densities are consistently lower, less than 7,500 per square mile throughout. This map is useful in comparing the distribution of services shown on previous maps with where people live. It helps to explain why there may be fewer components located in the southern half of Brookline, and supports to some extent the differentiation of levels of service between the two areas. However, regardless of density, all residents deserve access to a basic level of service, within reasonable distance from home. This is where distribution of facilities becomes more important than the quantity or capacity of facilities.

Capital & Maintenance Costs

The attached *HANCOCK VILLAGE BUFFER PRELIMINARY COST ESTIMATE* dated September 17, 2015 shows a range of costs for improving the approximately six acres of land to Town standards as a public active and passive recreational space using the recommendations provided by the residents of Precinct 16 of \$1,565,000. The cost estimate is conceptual using a

base plan and a variety of assumptions on conditions. The estimate provides cost to install handicapped accessible entrances at all of the crossings, a six-foot walking/jogging path along the extent of the park, picnic areas, exercise stations, play and pedestrian scale safety lighting at the crossings.

Annual maintenance costs for the Town are estimated to be approximately \$14,000 for forestry services to include corrective, health and safety pruning and removals as necessary and \$33,000 for annual landscape maintenance activities from March to December. Snow removal costs should be discussed if that would be a requested service of the Public Works Department.

Summary

Parks, open space and recreation facilities form an essential component of Brookline's character and have a long and established history in the town. Neighborhood parks also produce important social and community development benefits. They make neighborhoods more livable; offer recreational opportunities for all ages and abilities; and provide places where people can feel a sense of community. Existing parks and conservation lands provide numerous advantages to the community, including environmental protection, passive and active recreation, historic preservation, social benefits, and enhanced aesthetic character. Together, the park and open space system forms a large greenspace system in Brookline. The presence and distribution of greenspace is closely linked with the quality of natural and cultural resources available to the community.

The Park, Recreation and Open Space Master Plan states:








Brookline needs additional facilities and public spaces for both active and passive uses. The community survey revealed that Brookline residents strongly favor open space acquisition, trailways in and between our parks and open spaces, additional athletic fields and the provision of indoor multi-generational community recreation activities. In areas of town that are more densely developed, residentially and commercially, the challenge is to maintain the quality of openness along with important natural resource values. Creating more pocket parks and public gathering spaces, enhancing green travel ways for pedestrians and bicycles and a variety of possible zoning modifications to protect openness in the context of built space are some of the recommendations of this Master Plan and the Open Space Plan.

Precinct 16 has limited access to walkable public open space per the Town's Park, Recreation and Open Space Strategic Master Plan and national standards. Through the interviews it was clear that there is unanimous consensus that a neighborhood park for active and passive recreation is needed in Precinct 16. There was also a good deal of sentiment about the environmental, aesthetic and historic importance of "the buffer" and many stated their desire to protect and preserve this six- acre beautiful green landscape. Development of "the buffer" as a public park for active and passive recreation would provide a neighborhood destination for passive and active recreation that would meet that need.

Town of Brookline, Massachusetts

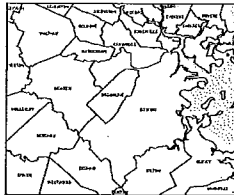
RECREATIONAL OPENSOURCE ACCESS BY PRECINCT

Legend

-  Voting Precincts
-  Selected Openspace*
-  OS Buffers 1/3 Mile With School Playgrounds
-  Property Lines
-  Water Body
-  Town Boundary
-  Street Edges

*excludes schools, conservation land and cemeteries

LOCUS MAP



DATA SOURCES

OPEN SPACE: Brookline GIS, March 1997.
This data layer was developed in house by Brookline GIS staff with the help of the Conservation Commission. It is based upon the Boston Edison street network, the Brookline parcels data layer and the paper plans that the Conservation Commission maintains. Attribute information were derived from the 'OPEN SPACE IN BROOKLINE' publication by the Brookline Conservation Commission.

PROPERTY LINES: This datalayer was developed by the Town's GIS Consulting firm Camp Dresser & McKee, Inc. in 1996 based upon the Boston Edison Company's street network data and the Town's DPW maintained Assessor's map sheets.

STREET EDGES: Boston Edison Company.

STREAMS, RIVERS, PONDS: Boston Edison Company.

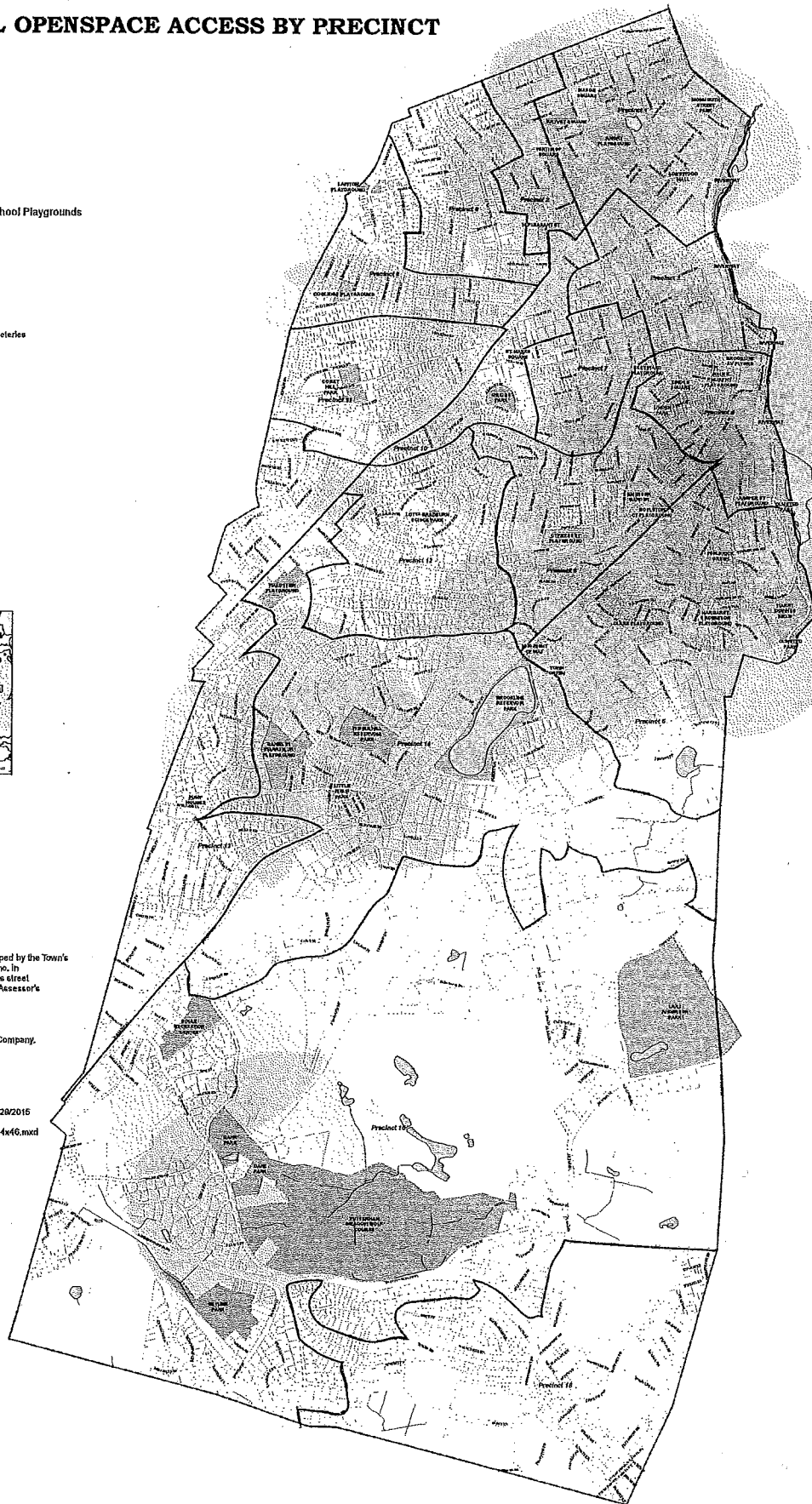
TOWN BOUNDARY: Boston Edison Company.
Updated by Camp Dresser & McKee, Inc. and it is based upon Brookline Assessor's map sheets.

Map last modified by Brookline GIS on Date: 10/28/2015

Source document: StandardMaps/OpenSpace34x46.mxd

DISCLAIMER

The Town of Brookline makes no claims, no representations, and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the Town, including the implied validity of any uses of such data.



0 0.15 0.3 0.6 Miles



4.8 GRASP™ ANALYSIS WALKABILITY



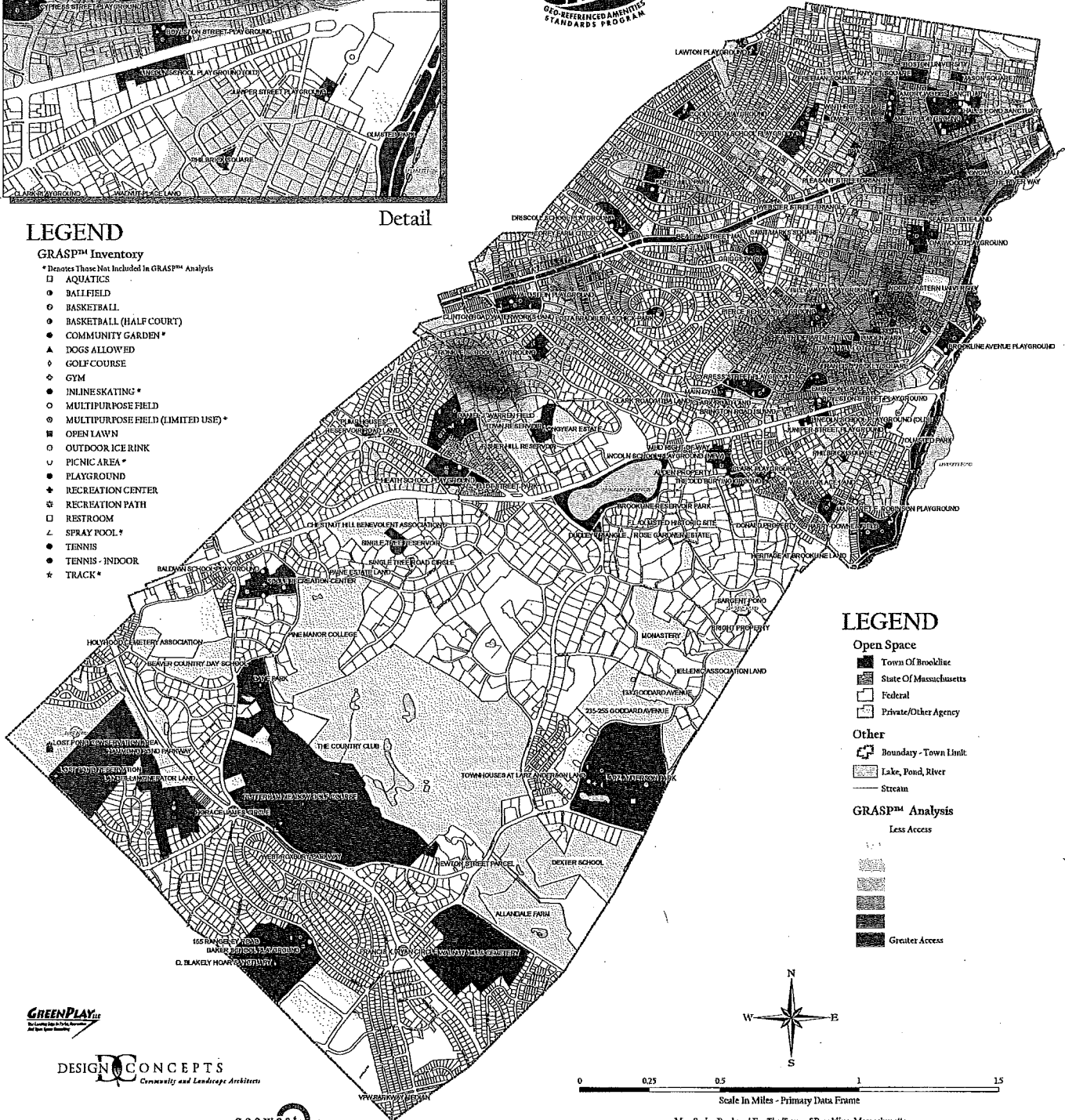
Detail

LEGEND

GRASP™ Inventory

* Denotes Those Not Included in GRASP™ Analysis

- AQUATICS
- BALLFIELD
- BASKETBALL
- BASKETBALL (HALF COURT)
- COMMUNITY GARDEN*
- ▲ DOGS ALLOWED
- GOLF COURSE
- GYM
- INLINESKATING*
- MULTIPURPOSE FIELD
- MULTIPURPOSE FIELD (LIMITED USE)*
- OPEN LAWN
- OUTDOOR ICE RINK
- PICNIC AREA*
- PLAYGROUND
- RECREATION CENTER
- RECREATION PATH
- RESTROOM
- ▲ SPRAY POOL*
- TENNIS
- TENNIS - INDOOR
- ★ TRACK*



LEGEND

Open Space

- Town Of Brookline
- State Of Massachusetts
- Federal
- Private/Other Agency

Other

- Boundary - Town Limit
- Lake, Pond, River
- Stream

GRASP™ Analysis

Less Access

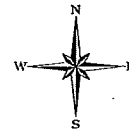
- Greater Access



DESIGN CONCEPTS
Community and Landscape Architects



Pressley
Associates, Inc.



0 0.25 0.5 1 1.5
Scale In Miles - Primary Data Frame

Map Series Produced For The Town of Brookline, Massachusetts
This Map Is Intended For Planning & Discussion Purposes Only
Please Refer To The Master Plan Document For Map Details
Map Produced By Geowest, Incorporated - Morrison, Colorado - 303.904.9982
Published - July 2003

TOWN OF BROOKLINE MASSACHUSETTS PARKS, OPEN SPACE & RECREATION MASTER PLAN

Brookline
Massachusetts

4.9 POPULATION ANALYSIS DENSITY PER SQUARE MILE - 2003 FIGURES



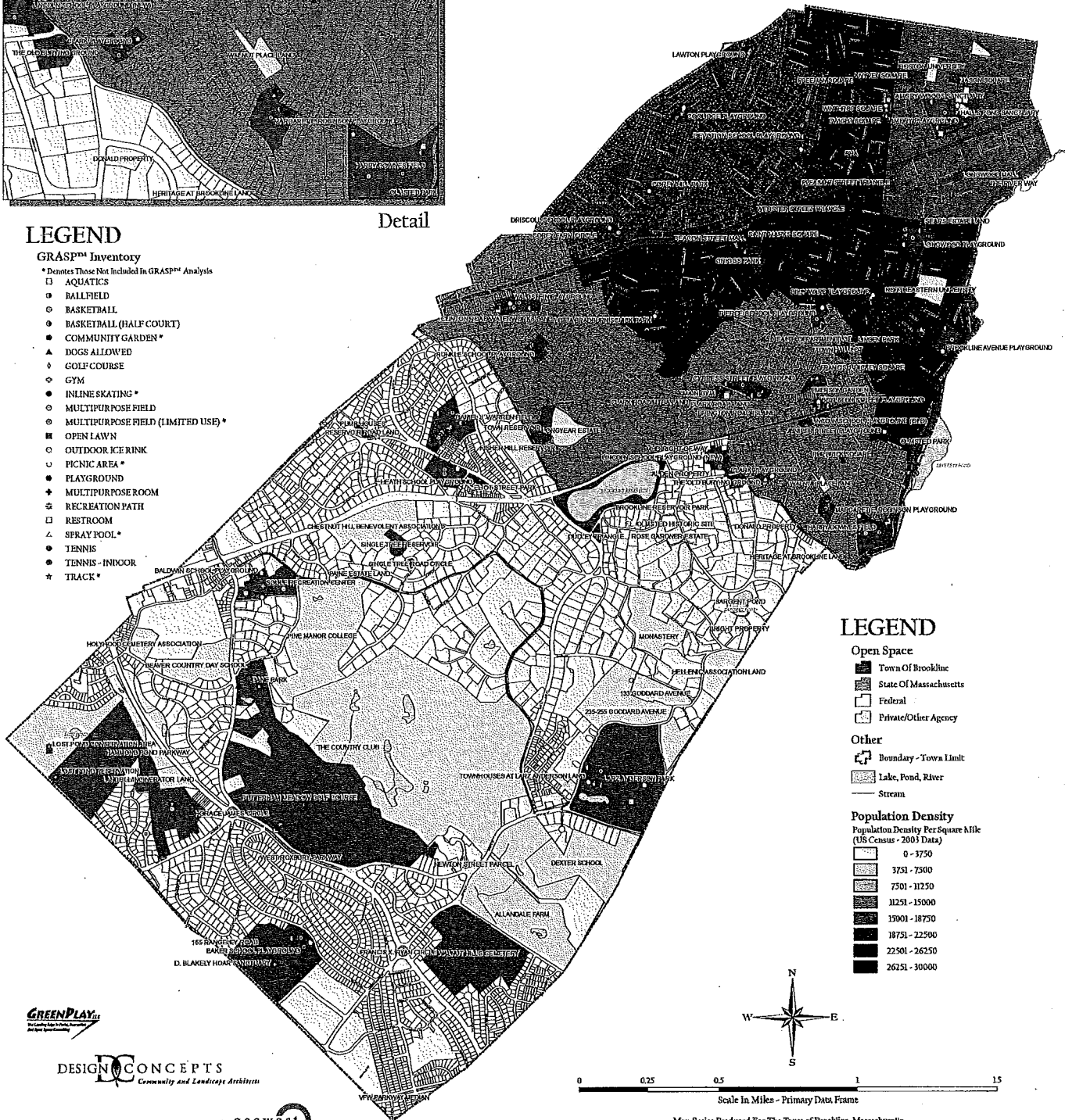
Detail

LEGEND

GRASP™ Inventory

* Denotes Those Not Included in GRASP™ Analysis

- AQUATICS
- BALLFIELD
- BASKETBALL
- BASKETBALL (HALF COURT)
- COMMUNITY GARDEN *
- ▲ DOGS ALLOWED
- GOLF COURSE
- GYM
- INLINE SKATING *
- MULTIPURPOSE FIELD
- MULTIPURPOSE FIELD (LIMITED USE) *
- OPEN LAWN
- OUTDOOR ICE RINK
- PICNIC AREA *
- PLAYGROUND
- MULTIPURPOSE ROOM
- RECREATION PATH
- RESTROOM
- ▲ SPRAY POOL *
- TENNIS
- TENNIS - INDOOR
- ★ TRACK *



LEGEND

Open Space

- Town of Brookline
- State of Massachusetts
- Federal
- Private/Other Agency

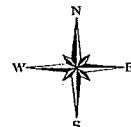
Other

- Boundary - Town Limit
- Lake, Pond, River
- Stream

Population Density

Population Density Per Square Mile
(US Census - 2003 Data)

- 0 - 3750
- 3751 - 7500
- 7501 - 11250
- 11251 - 15000
- 15001 - 18750
- 18751 - 22500
- 22501 - 26250
- 26251 - 30000



0 0.25 0.5 1 1.5

Scale In Miles - Primary Data Frame

Map Series Produced For The Town of Brookline, Massachusetts
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Please Refer To The Master Plan Document For Map Details
Map Produced By Geowest, Incorporated - Morrison, Colorado - 303.904.9982
Published - July 2005



DESIGN CONCEPTS
Community and Landscape Architects



Pressley
Associates, Inc.

TOWN OF BROOKLINE MASSACHUSETTS PARKS, OPEN SPACE & RECREATION MASTER PLAN

Brookline
Massachusetts



BROOKLINE BOARD OF ASSESSORS

333 Washington Street, Brookline, MA 02445 (617) 730-2060

MEMORANDUM

To: Alison C. Steinfeld, Planning Director
Copy: Mel Kleckner, Town Administrator
Joslin Ham Murphy, Town Counsel
From: Gary J. McCabe, Chief Assessor
Date: October 7, 2015
RE: Appendix E: Land Value Estimate of Certain Land in South Brookline

Per your request, I have prepared a market value estimate of certain land in south Brookline for the purposes of studying the potential financial impact of the Town acquiring the land through eminent domain. The land in question - the subject land - is an area of approximately 6.55 acres, or 285,318 square-feet, as determined by the Planning Department in a memorandum to the Chair of the Zoning Board of Appeals (see attached memo), and contained within multiple parcels currently owned by Hancock Village I LLC. The subject land falls within the S-7 land use zone (single family, 7,000 sq.ft. minimum), and is commonly known as the "buffer zone" between the Hancock Village apartment complex and neighboring residential areas along Russet Road and Beverly Road. A geographic image of the subject land is contained in the attached map as the 'green space' running east and west of Independence Drive.

Because the purpose of the valuation analysis is to estimate the market value of the subject land as if vacant and available for development, and because the land is not currently available to the open market, but is part of a redevelopment plan of the property owner, the analysis is based on a hypothetical condition, which is a condition directly related to a specific assignment, which is contrary to what is known by the analyst to exist on the effective date of the assignment results, but is used for the purpose of analysis. The selected valuation date is July 1, 2015.

The hypothetical market value estimate was made based on an analysis of 25 residential land sales in Brookline over a period of 52 months, from March 2011 through July 2015. The residential property sales ranged in land area from 6,136 square-feet to 228,168 square-feet and in price from \$390,000 to \$7,525,000. Sale prices were adjusted for changes in market conditions between the sale date and the valuation date using the Standard & Poor's Case-Shiller Home Price Index for the Boston MSA. An explanation of the S&P-CS-Index is attached from the July 2015 composite report.

The attached analysis of 25 residential land sales was used to estimate the subject land value as of July 1, 2015, using a mass-appraisal approach. In total the 25 sales included 978,008 square-feet of land, almost 22.5 acres. The total time adjusted sales price was \$49,773,140, or in aggregate, \$50.89 per square of land, on average. If the average sale price of available residential land in Brookline was \$50.89 per square-foot as of July 2015, under the same or similar conditions, the subject land area of 285,318 square-feet would have an estimated market value of **\$14,520,500** (\$50.89 x 285,318 sq.ft.), under the implied, right to develop, general assumptions, and without any specific cost of development considerations, or consideration of any known or unknown conditions limiting development, now or in the future.

The current use of the subject land area is as part of a 530 unit apartment complex contained within 44.54 acres in the Town of Brookline. The 'buffer zone' land is not currently improved, beyond landscaping and walking paths. A proposed development plan of the owner would incorporate the S-7 zoned land area for use as new apartment buildings and on-site parking under a comprehensive permit.



TOWN OF BROOKLINE

Massachusetts

DEPARTMENT OF PLANNING
AND COMMUNITY DEVELOPMENT

ALISON C. STEINFELD
Planning Director

MEMORANDUM

To: Jesse Geller, ZBA Chair
From: Alison C. Steinfeld
Date: October 20, 2014
Case: Residences of South Brookline Comprehensive Permit Application

Re: Estimates for As of Right Development

At the request of the ZBA, the Planning Department has estimated the number of single-family homes that could be built as-of-right, per zoning bylaw and excluding other design reviews (NCD), in the S-7 (greenbelt) portion of the Hancock Village property.

The estimates below were provided by Polly Selkoe, Assistant Director of Regulatory Planning; Michael Yanovitch, Chief Building Inspector; and Lara Curtis-Hayes, Senior Planner.

Note: The following estimates are not the basis of the formula for tax assessment. Please contact Chief Assessor, Gary McCabe, to discuss assessment queries.

Size of Area Studied

Total acres: 6.55 acres

Minimum Depth

S-7 / Greenbelt West: 90 feet

S-7 / Greenbelt East: 70 feet

Approximate Length

Baker School to Independence Drive: 880 feet

Independence Drive to Thornton Road: 215 feet

Thornton Road to Asheville Road: 440 feet

Asheville Road to VFW Parkway: 500 feet

Summary of Minimum Dimensional Requirement for S-7 Zoning District

Lot Size: 7,000 sf

Lot width: 65 feet

Frontage: 25 feet

Front yard setback: 20 feet

Side yard setback: 7.5 feet

Rear yard setback: 30 feet

Estimates for Single-Family Development

As of Right Case

8 single-family homes

ANR (Approval Not Required) Development Case

11 single-family homes

8 single-family homes (with VFW Parkway curb cuts)

Subdivision Case

A 40-foot roadway would be required; because of limited depth of the study area, it is unlikely that a subdivision could be developed here.

If you have further questions, we are happy to answer them.

HANCOCK VILLAGE



Market Value Analysis of S-7 Buffer Zone Land at Hancock Village

As of July 1, 2015

Total Area per Planning Department:

6.55 Acres

285,318 square-feet

This analysis is based on a Hypothetical Condition, which is a condition directly related to a specific assignment, which is contrary to what is known by the analyst to exist on the effective date of the assignment results, but is used for the purpose of analysis.

Current Use: Part of land owned by Hancock Village Apartment Complex made up of 530 units in the Town of Brookline. Total area in Brookline = 44.54 acres.

Description of the property: Land shown on attached map as within the S-7 buffer zone of Hancock Village Apartment Complex

Market Price Analysis of Residential Land Sales in Brookline, available for development or redevelopment.

Based on the results of the market analysis below, the value of residential land available for development in Brookline as of July 1, 2015, on average, is \$50.89 per square-foot.

Property Location	Land Area (Sq.Ft.)	Zoning	Sale Date	Sale Price	TASP*	SP/SQ.FT.
5 Wellington Ter.	6,136	T-5	06/21/12	425,000	501,500	81.73
58 Cameron St.	6,397	S-10	02/14/14	800,000	840,000	131.31
42 Walnut Hill Rd.	7,499	S-7	11/09/12	495,000	579,150	77.23
26 Intervale Rd.	8,472	S-7	10/15/13	390,000	417,300	49.26
22 Cushing Rd.	10,131	S-7	09/17/13	950,000	1,026,000	101.27
18 Penniman Rd.	10,164	S-10	02/14/14	1,060,000	1,113,000	109.50
220 Wolcott Rd.	11,110	S-10	08/22/14	823,500	856,440	77.09
5 Kennard Rd.	13,647	S-10	01/18/13	600,000	690,000	50.56
93 Fisher Ave.	15,009	S-15	07/19/11	1,000,000	1,180,000	78.62
99 Fisher Ave.	15,117	S-15	03/15/11	1,000,000	1,180,000	78.06
77 Fisher Ave.	16,001	S-15	03/10/11	1,150,000	1,357,000	84.81
1 Olmsted Rd.	17,003	S-15	03/10/11	1,250,000	1,475,000	86.75
15 Cedar Rd.	19,196	S-15	09/20/13	1,725,000	1,863,000	97.05
160 Princeton Rd.	26,287	S-15	01/25/12	615,000	738,000	28.07
77-83 Leicester St.	51,247	S-15	07/15/15	3,400,000	3,400,000	66.35
48 Laurel Rd.	28,054	S-15	06/04/13	1,800,000	1,998,000	71.22
50 Lyman Rd.	33,172	S-25	03/26/13	2,000,000	2,240,000	67.53
324 Heath St.	40,255	S-40	09/07/12	1,400,000	1,624,000	40.34
17 Yarmouth Rd.	40,423	S-40	01/09/13	2,000,000	2,300,000	56.90
50 Yarmouth Rd.	42,055	S-40	04/03/13	2,400,000	2,664,000	63.35
77-83 Leicester St.	51,247	S-15	03/21/14	3,200,000	3,328,000	64.94
407 Warren St.	54,188	S-40	06/14/13	2,500,000	2,775,000	51.21
Off Warren St.	82,906	S-40	02/15/13	2,000,000	2,280,000	27.50
28 Fernwood Rd.	144,124	S-40	04/12/13	7,525,000	8,352,750	57.96
112 Woodland Rd.	228,168	S-40	05/23/13	4,500,000	4,995,000	21.89
TOTALS	978,008			45,008,500	49,773,140	50.89

TASP Aggregate Mean SP/SQ.FT.

Indicated Value = \$ 14,520,508 285,318 sq.ft. x 50.89 \$/sq.ft.

*TASP = Time Adjusted Sale Price to July 1, 2015 using the S&P Case-Shiller Home Price Index - Boston MSA

July Home Price Gains Concentrated in the West According to the S&P/Case-Shiller Home Price Indices

New York, September 29, 2015 – S&P Dow Jones Indices today released the latest results for the S&P/Case-Shiller Home Price Indices, the leading measure of U.S. home prices. Data released today for July 2015 show that home prices continued their rise across the country over the last 12 months. More than 27 years of history for these data series is available, and can be accessed in full by going to www.homeprice.spdji.com. Additional content on the housing market can also be found on S&P Dow Jones Indices' housing blog: www.housingviews.com.

Year-over-Year

The S&P/Case-Shiller U.S. National Home Price Index, covering all nine U.S. census divisions, recorded a slightly higher year-over-year gain with a 4.7% annual increase in July 2015 versus a 4.5% increase in June 2015. The 10-City Composite was virtually unchanged from last month, rising 4.5% year-over-year. The 20-City Composite had higher year-over-year gains, with an increase of 5.0%.

San Francisco, Denver and Dallas reported the highest year-over-year gains among the 20 cities with price increases of 10.4%, 10.3%, and 8.7%, respectively. Fourteen cities reported greater price increases in the year ending July 2015 over the year ending June 2015. San Francisco and Denver are the only cities with a double digit increase, and Phoenix had the longest streak of year-over-year increases. Phoenix reported an increase of 4.6% in July 2015, the eighth consecutive year-over-year increase. Boston posted a 4.3% annual increase, up from 3.2% in June 2015; this is the biggest jump in year-over-year gains this month.

Month-over-Month

Before seasonal adjustment, the National Index posted a gain of 0.7% month-over-month in July. The 10-City Composite and 20-City Composite both reported gains of 0.6% month-over-month. After seasonal adjustment, the National Index posted a gain of 0.4%, while the 10-City and 20-City Composites were both down 0.2% month-over-month. All 20 cities reported increases in July before seasonal adjustment; after seasonal adjustment, 10 were down, nine were up, and one was unchanged.

Analysis

"Prices of existing homes and housing overall are seeing strong growth and contributing to recent solid growth for the economy," says David M. Blitzler, Managing Director and Chairman of the Index Committee at S&P Dow Jones Indices. "The S&P/Case Shiller National Home Price Index has risen at a 4% or higher annual rate since September 2012, well ahead of inflation. Most of the strength is focused on states west of the Mississippi. The three cities with the largest cumulative price increases since January 2000 are all in California: Los Angeles (138%), San Francisco (116%) and San Diego (115%). The two smallest gains since January 2000 are Detroit (3%) and Cleveland (10%). The Sunbelt cities – Miami, Tampa, Phoenix and Las Vegas – which were the poster children of the housing boom have yet to make new all-time highs.

"The economy grew at a 3.9% real annual rate in the second quarter of 2015 with housing making a major contribution. Residential investment grew at annual real rates of 9-10% in the last three quarters (2014:4th quarter, 2015:1st-2nd quarters), far faster than total GDP. Further, expenditures on furniture and household equipment, a sector that depends on home sales and housing construction, also surpassed total GDP growth rates. Other positive indicators of current and expected future housing activity include gains in sales of new and existing housing and the National Association of Home Builders sentiment index. An interest rate increase by the Federal Reserve, now expected in December by many analysts, is not likely to derail the strong housing performance."

Graphical Representations of the U.S. Housing Market

Chart 1 below shows the seasonally adjusted changes in home prices from June to July 2015 with cities sorted by price change from highest on the left to lowest on the right. As evidenced by the chart, the strongest price gains are in the west. The only eastern city with a positive gain was Boston, while Los Angeles and Seattle were only western cities with weaker prices in July than in June.

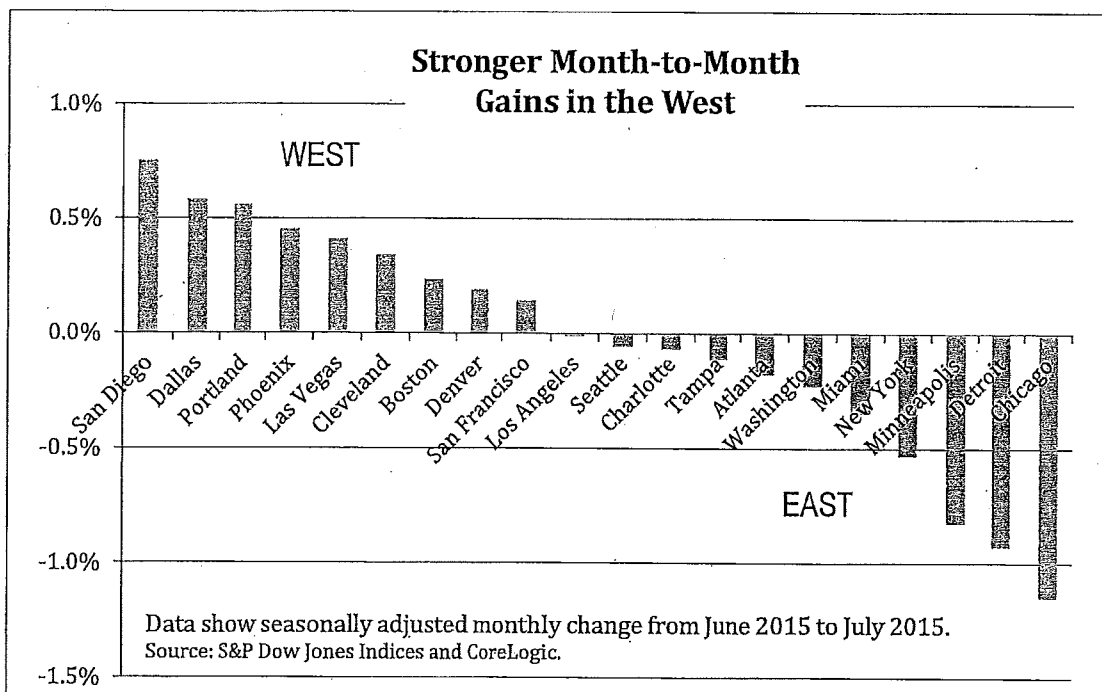


Chart 2 below depicts the annual returns of the U.S. National, the 10-City Composite and the 20-City Composite Home Price Indices. The S&P/Case-Shiller U.S. National Home Price Index, which covers all nine U.S. census divisions, recorded a 4.7% annual gain in July 2015. The 10- and 20-City Composites reported year-over-year increases of 4.5% and 5.0%.

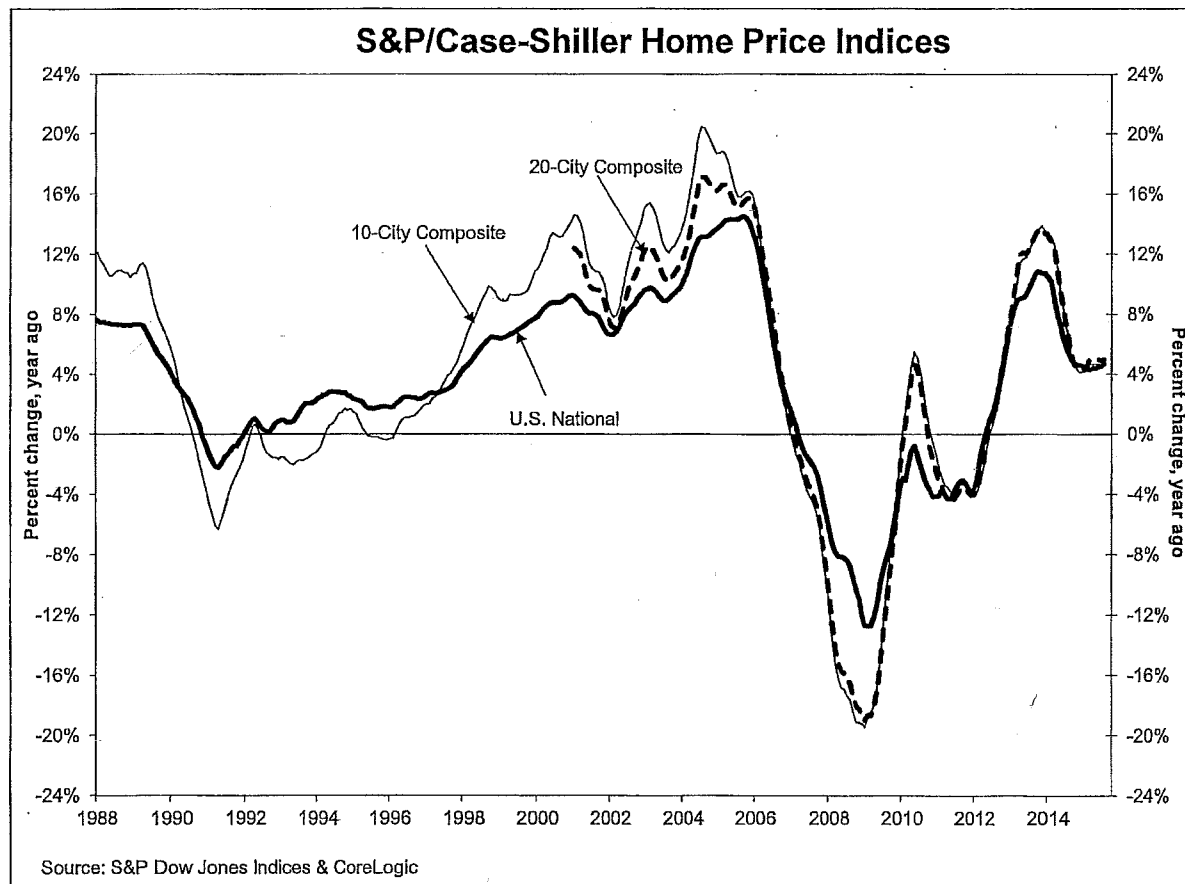


Chart 3 below shows the index levels for the U.S. National, 10-City and 20-City Composite Indices. As of July 2015, average home prices for the MSAs within the 10-City and 20-City Composites are back to their winter 2005 levels. Measured from their June/July 2006 peaks, the peak-to-current decline for both Composites is approximately 11-13%. Since the March 2012 lows, the 10-City and 20-City Composites have recovered 34.4% and 35.7%.

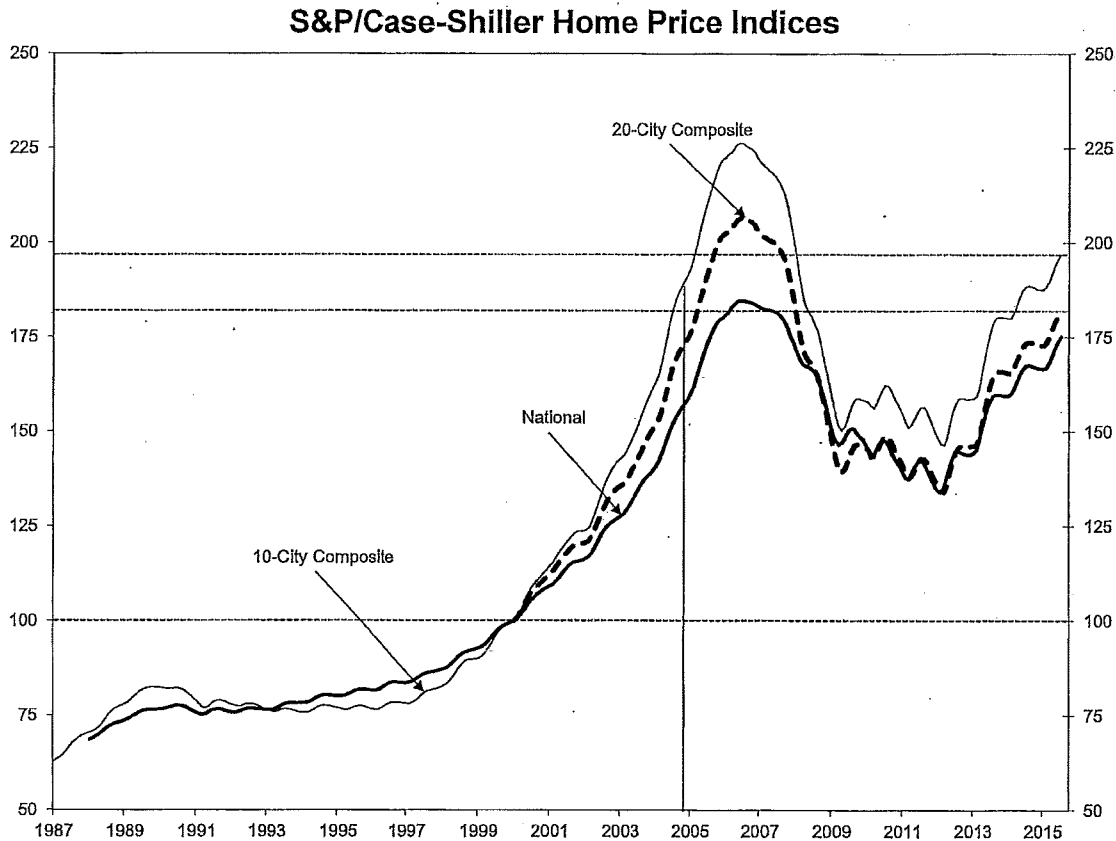


Table 1 below summarizes the results for July 2015. The S&P/Case-Shiller Home Price Indices are revised for the prior 24 months, based on the receipt of additional source data.

Metropolitan Area	July 2015 Level	July/June Change (%)	June/May Change (%)	1-Year Change (%)
Atlanta	125.88	0.8%	1.3%	5.8%
Boston	183.95	1.1%	1.4%	4.3%
Charlotte	134.47	0.1%	0.6%	4.9%
Chicago	133.36	0.9%	1.0%	1.8%
Cleveland	110.47	0.8%	1.4%	3.1%
Dallas	153.47	1.2%	0.9%	8.7%
Denver	171.31	0.7%	1.3%	10.3%
Detroit	103.42	0.7%	1.6%	5.4%
Las Vegas	144.39	0.8%	0.7%	6.2%
Los Angeles	238.24	0.4%	0.8%	6.1%
Miami	201.30	0.4%	0.3%	7.3%
Minneapolis	147.15	0.8%	1.1%	3.6%
New York	180.44	0.5%	1.1%	1.9%
Phoenix	154.03	0.7%	0.9%	4.6%
Portland	184.56	1.3%	1.5%	8.5%
San Diego	214.68	1.1%	0.3%	5.4%
San Francisco	215.84	0.6%	0.4%	10.4%
Seattle	183.31	0.5%	1.1%	7.3%
Tampa	170.88	0.6%	0.3%	5.5%
Washington	214.00	0.5%	0.8%	1.7%
Composite-10	196.85	0.6%	0.9%	4.5%
Composite-20	181.90	0.6%	0.9%	5.0%
U.S. National	175.11	0.7%	0.9%	4.7%

Source: S&P Dow Jones Indices and CoreLogic
Data through July 2015

Table 2 below shows a summary of the monthly changes using the seasonally adjusted (SA) and non-seasonally adjusted (NSA) data. Since its launch in early 2006, the S&P/Case-Shiller Home Price Indices have published, and the markets have followed and reported on, the non-seasonally adjusted data set used in the headline indices. For analytical purposes, S&P Dow Jones Indices publishes a seasonally adjusted data set covered in the headline indices, as well as for the 17 of 20 markets with tiered price indices and the five condo markets that are tracked.

Metropolitan Area	July/June Change (%)		June/May Change (%)	
	NSA	SA	NSA	SA
Atlanta	0.8%	-0.2%	1.3%	-0.5%
Boston	1.1%	0.2%	1.4%	0.1%
Charlotte	0.1%	-0.1%	0.6%	-0.2%
Chicago	0.9%	-1.2%	1.0%	-1.3%
Cleveland	0.8%	0.3%	1.4%	0.0%
Dallas	1.2%	0.6%	0.9%	0.1%
Denver	0.7%	0.2%	1.3%	0.3%
Detroit	0.7%	-0.9%	1.6%	-0.6%
Las Vegas	0.8%	0.4%	0.7%	0.2%
Los Angeles	0.4%	0.0%	0.8%	0.1%
Miami	0.4%	-0.3%	0.3%	-0.1%
Minneapolis	0.8%	-0.8%	1.1%	-0.8%
New York	0.5%	-0.5%	1.1%	-0.5%
Phoenix	0.7%	0.5%	0.9%	0.3%
Portland	1.3%	0.6%	1.5%	0.5%
San Diego	1.1%	0.8%	0.3%	-0.3%
San Francisco	0.6%	0.1%	0.4%	-0.4%
Seattle	0.5%	-0.1%	1.1%	0.1%
Tampa	0.6%	-0.1%	0.3%	-0.7%
Washington	0.5%	-0.2%	0.8%	-0.1%
Composite-10	0.6%	-0.2%	0.9%	-0.2%
Composite-20	0.6%	-0.2%	0.9%	-0.2%
U.S. National	0.7%	0.4%	0.9%	0.1%

Source: S&P Dow Jones Indices and CoreLogic

Data through July 2015

For more information about S&P Dow Jones Indices, please visit www.spdji.com.

About S&P Dow Jones Indices

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Appendix F: Letter from Rep. Edward F. Coppinger



The Commonwealth of Massachusetts
HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02153-1084

EDWARD F. COPPINGER
STATE REPRESENTATIVE
10th SUFFOLK DISTRICT
SOUTH HOUSE, ROOM 100
TEL: (617) 725-5204

Committee
Vice Chair
Standing Policy and Scholarship
Financial Services
State Administration & Regulatory Oversight

March 24, 2015

Dear Town of Brookline Officials,

If the appropriate Brookline authorities legally and in good faith vote for an Eminent Domain taking of any or all of the two green S-7 "butter kornes" also known as S-7 "green Dells" of Hancock Village, I, Edward F. Coppinger, a Massachusetts State Representative representing the 10th Suffolk District in the legislature, including Brookline precincts 14, 15, and 16 of the Town, will zealously advocate for state funding or any other government agency, on behalf of said Eminent Domain taking.

Sincerely,

Edward F. Coppinger
State Representative
10th Suffolk District

To Brookline Officials:
If Eminent Domain is voted "I,
Edward F. Coppinger, a
Massachusetts State
Representative representing
the 10th Suffolk District in the
Legislature, including
Brookline precincts 14, 15,
and 16 of the Town, will
zealously advocate for state
funding on behalf of said
Eminent Domain taking."

4/9/2015

DRAFT

APPENDIX G: Capacity in the CIP for Certain Land in South Brookline

OFFICE OF SELECTMEN

MEMORANDUM

TO: Alison Steinfeld, Planning Director

FROM: Melissa Goff, Deputy Town Administrator

RE: **Capacity in the CIP for Certain Land in South Brookline**

DATE: 10/13/15

I have been asked about the potential financial impact on the Town's CIP if the Town sought to purchase the land in South Brookline described in Assessor Gary McCabe's 10/7/15 memo and valued at \$14,520,500. Because the FY2017-FY2022 is still in development I chose to examine this question within the assumptions used in the FY2016-2021 CIP, with funds borrowed during FY 2017 and debt service commencing in FY 2018. A \$14,520,500 million bond to fund the purchase of greenspace would cost roughly \$1.6 million for the first year of debt service.

As you know, the Town's CIP policies call for 6% of the prior year's net revenue to be dedicated to the CIP. The goal is to have the 6% consist of both a debt-financed component and a revenue (or "pay-as-you-go") component, with 4.5% for debt-financed CIP and 1.5% for pay-as-you-go CIP. Adding the cost of a bond used to purchase this land to the debt service schedule will effectively eliminate the availability of tax-financed monies from that 6% financing. This leaves just Free Cash as the funding source for all pay-as-you-go projects. This provides a high level of uncertainty to the CIP. The amount of free cash available for the CIP can fluctuate dramatically from year-to-year. At the very least \$1.6M of pay-as-you-go projects would need to be cut from the CIP in FY2018 and in future years there will be less capacity for projects currently contemplated in the debt management plan (like the High School). Borrowing plans for future projects would need to be reconsidered or delayed in addition to the reductions in pay-as-you-go projects scheduled in the out-years of the CIP. Given the level of pressure this project would exert on the CIP it may be more realistic to pursue a debt exclusion for funding.